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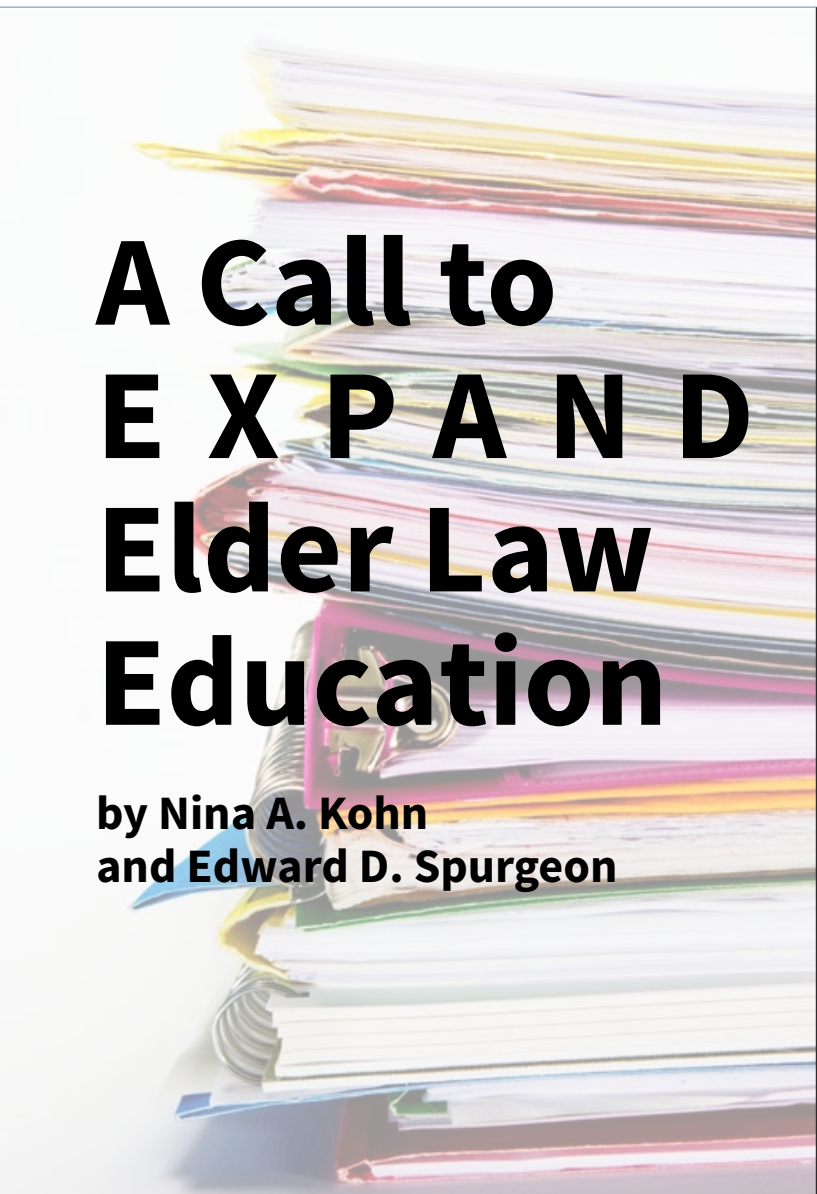
Conservatorship and Guardianship Bonds:

State Statutory Requirements

by Katherine Gorski

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A Journal of the  Commission on Law and Aging
Vol. 35, No. 5, May–June 2014



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by Nina A. Kohn
and Edward D. Spurgeon



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A Call to EXPAND Elder Law Education

by Nina A. Kohn
and Edward D. Spurgeon

As the field of elder law grows, so does the need of elder law-related education and training for law students and attorneys. But just how much of a need is there? And what type of training would be most valuable? To answer these questions, we conducted a national survey of elder law attorneys. The 270 practicing elder law attorneys who responded to our survey between December 2010 and October 2011 provided a valuable portrait of elder law practice in the United States.

This article briefly summarizes our key findings, which were reported in full in an article published in the *Elder Law Journal* this spring (Nina A. Kohn & Edward D. Spurgeon, *A Call to Action on Elder Law Education: An Assessment & Recommendations Based on National Survey*, 21 ELDER LAW JOURNAL 345 (2014), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2434807), and then suggests how readers might further our call for expanded elder law-related education and training.

Five key findings emerged from our survey of elder law attorneys.

A growth field

First, elder law continues to be a growth field. Almost all (93%) of the attorneys responding to our survey reported that elder law is a growing field; of the remaining respondents, 5% were unsure and only 2% believed that elder law is not a growth field. Moreover, over two-thirds (68%) reported that there are ample job opportunities in the field, and only 8% disagreed with the proposition that there are ample opportunities. The job opportunities for elder law attorneys appear to reflect client demand: nearly three-quarters (72%) of attorneys responding to our survey opined that there is a need for more elder law attorneys, whereas only 8% reported that there is no such need.

A coherent field

Second, elder law—although a new field—is a coherent one. Attorneys reported that their practices span a wide range of legal concerns related to older adults' health, financial security, independence, and dignity. Despite the breadth of substantive issues covered by those practicing in the field, however, there was a high level of consistency as to the areas in which elder law attorneys focus their practices.

The vast majority of attorneys reported that their practices include work in end-of-life issues, Medicaid planning and coverage, advance directives, guardianship and its alternatives, and estate planning. There were some differences, however, by sector. Those in private practice were more likely to frequently deal with estate and Medicaid planning issues than were attorneys working in the public sector. Similarly, attorneys practicing in nonprofit settings were more likely to frequently deal with Social Security, Medicare coverage issues, and nursing home residents' rights and litigation than attorneys in private practice.



A need for expanded elder law education

Third, there is a significant need for expanded elder law education within law schools. The vast majority of attorney respondents who had received elder law education in law school reported that it was helpful in practice, and over 90% of attorney respondents thought that law schools should offer such instruction.

Moreover, attorneys indicated that there are particular skills that elder law attorneys especially need where law schools could focus training. Attorneys reported that the most important skills for an elder law attorney are client interviewing and counseling skills, although substantive knowledge about the law and knowledge about resources for older adults are also critically important. Additionally, the vast majority reported that elder law practice requires practice management skills, the ability to work with professionals from other disciplines, and skills in alternative dispute resolution, problem-solving, and legal research.

Elder Law—A Growth Field



"There are ample job opportunities in the field of Elder Law."

68% Agree • 24% Other • 8% Disagree



"There is a need for more Elder Law attorneys."

72% Agree • 20% Other • 8% Disagree



"Elder Law is growth field."

93% Agree • 5% Other • 2% Disagree

A need for continuing elder law training

Fourth, the need for expanded elder law education is not limited to education within law schools. Although two-thirds of attorneys were satisfied with existing CLE opportunities, one-quarter felt there are currently insufficient CLE offerings related to elder law. In addition, although the majority of attorneys reported that the quality of the elder law bar is good or very good, nearly a third reported that it is merely satisfactory or poor. In their open-ended comments, attorneys suggested particular need for advanced elder law training in part because of continual changes in laws and regulations. They also saw a need for more offerings related to representing middle- and low-income clients, ethical issues, and elder abuse.

A satisfying practice

Finally, the survey suggests that elder law is a satisfying area of law in which to practice, especially for individuals who value a high level of interpersonal interaction. Across practice sectors, attorneys reported that the ability to help people was the most satisfying aspect of elder law. A majority also listed “the level of client interaction” as one of the three most satisfying aspects of elder law practice, while just under half listed “the opportunity to engage in multi-disciplinary practice” as one of the three most satisfying aspects of elder law practice.

Recommendations

Together, these findings led us to make the following recommendations, explored at length in our article in the *Elder Law Journal*:

- Law schools should:
 1. offer elder law courses to J.D. students;
 2. offer both doctrinal and clinical elder law education,
 3. integrate aging issues into their general curriculum, and
 4. consider offering students a concentration in elder law;
- Continuing legal education opportunities related to elder law should be expanded; and
- Elder law education at all levels should include a focus on client interaction skills and ethics, and should strive to be responsive to the evolving needs of elder law practice and the legal profession more broadly.

We encourage attorneys who share this vision to reach out to their alma maters and law schools in their region to encourage investment in elder law education, and to offer to serve as a mentor or resource for students considering elder law practice.

Nina A. Kohn is a Professor at Syracuse University in Syracuse, NY, and a Commissioner of the ABA's Commission on Law and Aging.

Edward D. Sprugeon founded The Borchard Foundation Center on Law and Aging and serves as Co-Director. He is an advisor to the Commission on Law and Aging.

Read their paper, *A Call to Action on Elder Law Education: An Assessment & Recommendations Based on National Survey*, 21 ELDER LAW JOURNAL 345 (2014), online at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2434807. ■

Elder Law— Why Do Lawyers Find it So Satisfying?

Top three reasons—

- The ability to help people
- The level of client interaction
- The opportunity to engage in multidisciplinary practice



Legal Challenges to Achieving an Age-Friendly Society in the United States

by David M. English

This article is the text of a lecture given by Professor David English in March 2014 at the Institute of Gerontology, University of Tokyo, Japan, and at Beijing Administrative College in Beijing, China. An overview of legal issues related to aging in the United States, the article serves as a useful introduction to our international readers and as a helpful snapshot of current issues for our domestic readers.

The study of aging is a multi-interdisciplinary activity involving experts in law, social work, medicine, and many other fields. I am a lawyer with a second degree in economics.

I am also the Chair of the American Bar Association's Commission on Law and Aging. The Commission on Law and Aging is a 15 member group of lawyers and non-lawyers that conduct research on legal and policy issues relating to aging in the US. The Commission is assisted by a full-time staff of seven.

Elder Law

There is a growing interest in the US in legal problems relating to aging. While the elderly have always needed the help of lawyers to solve legal problems, the field of "Elder Law" was not recognized as a specialty subject in the US until about 25 years ago. "Elder Law" may be defined as the study of legal issues that exclusively or primarily affect the elderly. Reference is made

here to issues that "primarily" affect the elderly because many of the topics discussed below also impact younger adults with physical, mental, or cognitive disabilities. Most attorneys who specialize in Elder Law also work with younger clients with disabilities.

The definition of who is elderly varies from country to country. In the United States, the usual standard for deciding who is elderly is age 65. This is the age that an individual qualifies for Medicare, which is the national health insurance program for the elderly. It was also the former normal retirement age under the national Social Security program.

At the University of Missouri, I teach a course in Elder Law that focuses on the legal challenges encountered by elderly individuals in obtaining government benefits, in protecting their rights, and in planning for their futures. We begin with a discussion of demographic changes followed by a discussion of nine legal topics on which any attorney specializing in Elder Law must become expert. I will follow that same format here.

The Demographic Challenge

Much policy making for the elderly in the US is driven by demographic changes. There are an increasing number of individuals over age 65, and the age group over age 85 is growing even more quickly. The increases in the number

of individuals over age 65 places stress on the funding of the US retirement system. Because many of the very old have dementia or other chronic conditions, the increase in the oldest group has serious implications for long-term care and the appointment of guardians. Women also live on average longer than men, and many elderly women live alone without family nearby or available to provide care. The birth rate in the US, while not falling as quickly as in some other countries, is low enough that over time there will be less working adults to pay taxes to support government programs trying to serve more and more elderly clients.

The Challenge to Employer Pensions

In many countries, pensions provided by employers are closely coordinated with government Social Security payments. In the US, the two systems are independent. Except for individuals with lower incomes, the national Social Security program replaces less than half of an individual's pre-retirement income. To assure a decent standard of living, the retiree should supplement Social Security payments with an employer pension or private savings. However, only about half of US households have a retirement account of any kind other than Social Security.

Pensions providing fixed payments for life (known as "defined benefit plans") have also declined, often replaced by plans known as 401(k)'s where it is up to the employee to decide whether or not to contribute to the plan. Many employees, occupied by more immediate financial concerns, decide not to contribute. Individuals in the US also save much less of their salaries than do individuals in many other countries. Individuals should plan for their retirement well in advance of the target date, but for those who do, such planning is sometimes faulty.

Sometimes individuals approaching retirement age unexpectedly lose their jobs and are unable to secure equivalent work. Many people also underestimate their life expectancy, leading them to underestimate their financial needs. The result of all of the above factors is that many individuals, when they retire, will live in reduced financial circumstances.

The Challenge to Social Security

Social Security in the US is paid from the Social Security Trust Fund. The Fund balance equals total Social Security taxes paid in since 1935 less benefits paid out. Due to the demographic changes discussed above, beginning in 2010, the Trust Fund for retirees and survivors began to pay out more in benefits than it collected in Social Security taxes.

It is predicted that the Trust Fund will run out of money in 2033. The program will thereupon have to cut benefits by about 25% in order to match payments to current Social Security taxes. To avoid such a sudden cut, Congress should act well in advance of the 2033 deadline to either increase Social Security taxes or modify benefits. Each year that the US Congress waits to act, the necessary adjustments will become more severe. But while many bills to reform the system are introduced each year, there is little likelihood that the political parties in the US Congress will agree any time soon on how to amend the Social Security Act.

The Health Care Financial Challenge

Health care for the elderly in US is paid for by the federal Medicare program. For elderly persons who are poor, Medicare is supplemented by Medicaid, which is paid for partly by the federal government and partly by the individual states. Due to the increasing number of elderly persons, Medicare is under severe financial stress; it is predicted that the Trust Fund for hospital benefits will be depleted by 2026.

Addressing the predicted deficit may require that Congress reduce Medicare benefits. However, Medicare already has many gaps in coverage, requiring that elderly persons purchase private supplemental policies. Medicaid for the poor isn't necessarily in better financial shape, and because of low fees paid by Medicaid, many doctors refuse to accept Medicaid patients. Nor are Medicaid benefits coordinated well with Medicare. There are gaps between the two systems.

The Challenge of Consumer Fraud

The elderly are frequent targets of fraud. Federal and state regulation is incomplete and inconsistent. There are many types of fraud. Examples include: mortgage fraud; fraudulent sales of private health insurance; theft by court-appointed guardians; theft by agents under powers of attorneys; funeral fraud; telemarketing, home repair, and sweepstakes fraud. Fortunately, fraudulent activities impact only a minority of elderly persons but these individual cases can result in severe financial loss.

The Challenge of Long-Term Care

The federal Medicare program pays for medical expenses such as doctors, hospitals, medical tests, and medications, but Medicare pays for only a small portion of long-term care. The majority of nursing home expenses in the US are paid for by Medicaid or from private savings. Medicaid is under severe financial stress and adjustments to the program will eventually have to be made. Private long-term care insurance, while available, has not really taken hold in the US.

There are additional concerns. Despite a detailed statement of patient rights in the federal Nursing Home Reform Act, studies indicate that enforcement has been inadequate. There is insufficient staff in many facilities and in others the staff may not have had adequate training.

The Challenge of Guardianship

Guardians are appointed by the court to manage the personal and financial affairs of minors and of adults who lack mental capacity. Because of the increasing number of elderly and the corresponding increase in the number of elderly who lack mental capacity, the number of court-appointed guardians is increasing in the US. But because each state reports its guardianship cases differently or not at all, the exact number of guardians is unknown. There is a need for better data.

Over the past 30 years, there have been major reforms in US guardianship laws. The court is encouraged to explore alternatives to

guardianship before making an appointment. In making an appointment, the court is encouraged to give the guardian only such powers as are necessary, a goal which is achieved by appointing what is known as a limited guardian. But there is a big gap between the statute and the actual practice. Many who work in the guardianship field believe that limited guardians could be appointed in many more cases.

There are also concerns that the courts do not sufficiently review the annual reports filed by guardians and otherwise fail to sufficiently monitor the guardian's actions.

The Challenge to Planning for Incapacity

Most people will lack adequate mental capacity to make their own decisions sometime during their lives. Yet, most adults fail to plan in advance. There is a need for better education on the options and encouragement for people to plan. Methods of planning for management of finances include the revocable trust and the financial power of attorney. Methods of planning for health-care decisions include the health care power of attorney and the health care directive.

In the case of the revocable trust, individuals will typically name themselves as their own trustees but with a successor trustee standing by in the event of incapacity.

In the case of powers of attorney, whether for finances or health care, individuals designate an agent to make decisions for them, with the agent similarly stepping in upon the loss of capacity or where the need for assistance is otherwise apparent.

In a health-care directive, an individual will provide specific instructions on health care to be provided in the future.

The Challenge to Health-Care Decisions

But signing a health care power of attorney or health care directive may not be effective to assure that health care decisions are made in accordance with the individual's wishes. Paper documents often are not where they need to be when the health care decision must be made or, even if available, will not be examined.

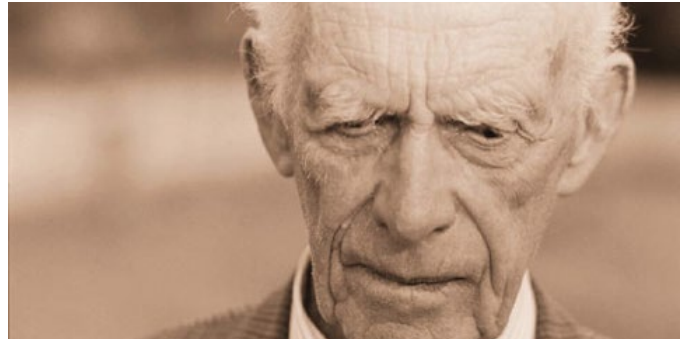
Many such advance planning documents are also filled with legal language, making them difficult for doctors and other health care providers to understand. Better methods for delivering the documents electronically should reduce the access problem.

Also, a new technique known as physician orders for life-sustaining treatment (POLST) should lessen the reluctance of health care providers to honor the documents. POLST is initiated by conversations between medical providers and the patient or family. Included in the POLST counseling process is the conversion of the patient's advance planning document into a physician's order which uses language that a doctor will understand. POLST shows great promise of creating a pathway whereby a patient's wishes will more likely be honored.

The Challenge of Elder Abuse

Elder abuse occurs when someone with a prior relationship with the elderly person abuses that relationship in a severe way. It may be a family member who commits the abuse, or it might be an employee of the facility where the elderly person resides. Abuse comes in various forms, including physical, psychological, financial, and sexual abuse. Similar to guardianship, good data on the prevalence of elder abuse does not exist but the increases in the number of elderly suggest a corresponding increase in the incidence of abuse. One reason for the lack of data is that most elder abuse is hidden and is never discovered. Criminal prosecutions for elder abuse are difficult to maintain and once the money is gone, it is unlikely that it will be recovered. All US states have agencies responsible for investigating reports of elder abuse and for providing what is known as adult protective services in such cases, but these agencies have very high case loads.

David M. English is the William Franklin Fratcher Professor of Law at the University of Missouri in Columbia, Missouri. He is also Chair of the American Bar Association's Commission on Law and Aging. ■



CLE Webinar

Aging in America and the Rise of Elder Abuse

July 8, 2014

1:00 PM - 2:30 PM ET

This program will introduce the connection between elder abuse and our aging population, aging clients, and fellow aging practitioners.

Elder abuse is a rampant and rapidly growing problem throughout the country. While it is increasingly common, elder abuse remains dramatically underreported. This presentation is designed to raise awareness and understanding of the elder abuse epidemic and to assist attorneys to begin the process of addressing potential elder abuse within their pool of clients and potential clients.


Sponsored by the ABA Commission on Law and Aging, the Center for Professional Development, and the Senior Lawyers Division

Panelists will discuss a variety of topics, including:

- The impact on estate planning
- Capacity assessment
- Ethical considerations
 - Who is your client?
 - Capacity concerns
 - Mandated reporting

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- Online: <http://shop.americanbar.org/ebus/ABAEventsCalendar/EventDetails.aspx?productId=128760589> ■



Will and Trust Contests

Attorneys and the Issue of Client Capacity

by Kerry R. Peck

A High-Profile Example: The Brooke Astor Case

In 1953 Brooke Russell married Vincent Astor, known at the time as the “richest boy in the world” after inheriting an estimated \$69 million after his father went down with the Titanic. After Vincent died of a heart attack six short years later, Brooke became the sole heir to the Astor fortune. Brooke was a well-known philanthropist throughout her lifetime, donating over \$200 million of her wealth to charity over the years. She had prepared her estate plan to continue charitable donations after her death. Brooke Astor’s 2002 will donated a large majority of her \$100 million fortune to various charities. However, in the later years of her life, her will was amended several times to make specific provisions for her only son, Anthony Marshall.

As Brooke became incapacitated with Alzheimer’s disease, her family and friends

began to suspect that Anthony and his wife were stealing Brooke’s fortune for their personal use. Brooke’s grandson, Philip Marshall, filed a petition to remove Anthony as Brooke’s guardian. Nearly a dozen lawyers appeared before a New York Judge to support the removal. After hearing evidence, the Judge appointed Mrs. Oscar de la Renta and JPMorgan Chase Bank as Brooke’s guardians. A settlement was reached after months of arguments between the parties, in which Anthony and his wife returned some of his mother’s belongings and resigned their positions as co-executors of Mrs. Astor’s estate.

Brooke Astor died in 2007 at the age of 105 with an estate worth an estimated \$180 million. A few months after her death, indictments on criminal charges were announced against Anthony Marshall and his lawyer.

In 2009, at the end of a six-month criminal trial in New York, a jury convicted Anthony Marshall on 14 of 16 counts for financially exploiting his mother by first- and second-degree grand larceny, possession of stolen property, scheming to defraud, offering a false instrument, and conspiracy. In that same trial, Anthony's lawyer, Francis X. Morrissey, was convicted of scheming to defraud, forgery, and conspiracy.

It wasn't until five years after her death, in 2012, that a settlement was reached on Brooke Astor's estate. The settlement was based on Brooke's 2002 will, and nullified the later amendments. Nearly half of Anthony's \$30 million inheritance was deducted for restitution.

What Can Attorneys Do?

This is a high-profile case, which received a lot of media attention, but this situation is more common than you may think. We see it all too often—people taking advantage of older adults with diminished capacity. Most commonly, the accusations are of elder abuse, theft, undue influence, and forgery.

Some of the time, these cases are initiated when the older adult is still alive and a determination of capacity can be made by a physician. But what happens when capacity isn't questioned until after death? As you can imagine, this process is much more difficult. We have to rely on medical reports (if any exist), witness testimony from friends and family of the deceased, expert witness testimony regarding the medical condition of the decedent, and even handwriting analysis. This process can take years and can be very costly.

As attorneys, how can we help our clients avoid a will contest? Moreover, how do we know when to question mental capacity? Testamentary capacity should always be addressed when your client wants to change or create a new estate plan, when a third party brings a client to your office, or when a third party contacts you on behalf of a client.

If mental capacity is at all in question, enhanced formalities should be considered to protect against reasonably foreseeable future challenges. It is sensible to consider extra

documentation of mental capacity if the person executing estate planning documents is

- sick, hospitalized, impaired or disabled,
- unable to travel to the attorney's office,
- making a major change in a previously executed document,
- physically or emotionally dependent on another person,
- not a current client of the attorney who prepared the document and did not personally arrange the appointment with the attorney, or
- disinheriting a child or close relative.

Physician determination of mental capacity can be a useful tool when a client or potential client requests preparation of estate planning documents, and that individual has questionable capacity. Regarding testamentary capacity, the physician should evaluate a patient, within a reasonable degree of medical certainty, to determine if the patient is or is not capable of the following:

- Does the patient have sufficient mental capacity and ability to know the nature and extent of his or her property?
- Does the patient have sufficient mental capacity and ability to know approximately how much his or her property is worth?
- Does the patient have sufficient mental capacity and ability to know the natural objects of his or her bounty? (e.g., the persons who are close enough to the patient to be named as recipients of the patient's property in a will)
- Does the patient recognize and remember his or her close relatives and/or care givers?
- Does the patient understand that they can leave property to chosen persons upon his or her death?
- Does the patient have the mental capacity to form a plan in their mind?

I would suggest having the person examined by a physician near the time the estate plan is to be signed. Make sure the person signing can read the estate plan, or have someone read the estate planning documents in their entirety to the person, before it is signed. If the person's vision is impaired, print the document in large type and read it aloud.

I also recommend that before a signing, the person should review a letter from the attorney which explains the key provisions of the document in clear, readable terms, and summarizes prior discussions between the person and the attorney. At the time of signing, have the person identify where she is, what day and time it is, and generally describe the key provisions of the document in front of witnesses. Use witnesses who are relatively young and stable, and are not named in the documents being signed.

As Alzheimer's disease is on the rise, and our population of senior citizens grows as the baby boomers are aging, there will be an inevitable increase in will contests based on lack of testamentary capacity. We are responsible for making sure our clients are making their OWN decisions, and taking precautionary measures to assure that we have evidence of capacity, if it is questioned after death.

Kerry R. Peck is the managing partner of the Chicago law firm Peck Bloom, LLC where he concentrates his practice in Trust and Estate Litigation, Estate Planning, Administration, Guardianship and Fiduciary Litigation, and Special Needs and Alzheimer's Disease Planning.

Mr. Peck is a Commissioner of the ABA Commission on Law and Aging and a past President of the 22,000-lawyer Chicago Bar Association. He is chair of State's Attorney Anita Alvarez's Elder Abuse Task Force and was retained by the City of Chicago Department of Aging to rewrite the State of Illinois Elder Abuse and Neglect Act.

He co-wrote the book Alzheimer's and the Law, published by the American Bar Association, and is a frequent speaker at continuing education seminars for attorneys and healthcare professionals across the country. ■

Commission Resource

Assessment of Older Adults with Diminished Capacity: A Handbook for Lawyers

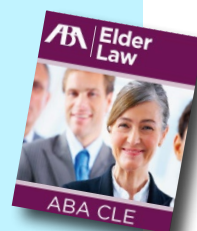


This book offers ideas and makes suggestions for attorneys who wish to balance the competing goals of autonomy and protection as they confront the difficult challenges of working with older adults with problems in decision-making capacity.

Available in print at: www.ShopABA.org or as a free pdf download on the Commission's [Capacity Assessment Resources](#) page.

Webinar | October 2013

Screening and Working with Older Clients with Diminished Capacity: Practical Tools and Strategies

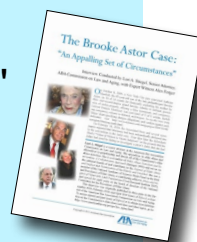


This recent webinar provides a practical tool and process for capacity screening by attorneys; clinical background on the nature, variations, and progression of cognitive impairments; warning signs of diminished capacity; strategies for maximizing clients' capacity; and practical guidelines for utilizing mental health professionals effectively.

Learn more at www.ShopABA.org.

Commission Resource

The Brooke Astor Case: "An Appalling Set of Circumstances"



For more information about the Brooke Astor case, see the three-part interview with Alex Forger, former chair of the Commission, who served pro bono as an expert witness for the prosecution about estate planning issues raised in the case.

Learn more at the Commission's [Elder Abuse Resources](#) page.

Conservatorship and Guardianship Bonds: State Statutory Requirements

by Katherine Gorski



Visit our website to download a complete Guardian Bond Chart.

State & Case	Requirement	Amount & Duration	Waiver/Release
Alabama 12-1-1-101	Conservatorship Bond. The conservator must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Alaska 13-13-010	Guardianship Bond. The guardian must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Arizona 14-14-010	Conservatorship Bond. The conservator must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Arkansas 15-15-010	Guardianship Bond. The guardian must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
California 16-16-010	Conservatorship Bond. The conservator must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Colorado 17-17-010	Guardianship Bond. The guardian must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Connecticut 18-18-010	Conservatorship Bond. The conservator must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Delaware 19-19-010	Guardianship Bond. The guardian must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Florida 20-20-010	Conservatorship Bond. The conservator must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Georgia 21-21-010	Guardianship Bond. The guardian must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Hawaii 22-22-010	Conservatorship Bond. The conservator must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Idaho 23-23-010	Guardianship Bond. The guardian must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Illinois 24-24-010	Conservatorship Bond. The conservator must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Indiana 25-25-010	Guardianship Bond. The guardian must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Iowa 26-26-010	Conservatorship Bond. The conservator must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Kansas 27-27-010	Guardianship Bond. The guardian must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Kentucky 28-28-010	Conservatorship Bond. The conservator must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Louisiana 29-29-010	Guardianship Bond. The guardian must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Maine 30-30-010	Conservatorship Bond. The conservator must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Maryland 31-31-010	Guardianship Bond. The guardian must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Massachusetts 32-32-010	Conservatorship Bond. The conservator must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Michigan 33-33-010	Guardianship Bond. The guardian must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Minnesota 34-34-010	Conservatorship Bond. The conservator must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Mississippi 35-35-010	Guardianship Bond. The guardian must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Missouri 36-36-010	Conservatorship Bond. The conservator must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Montana 37-37-010	Guardianship Bond. The guardian must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Nebraska 38-38-010	Conservatorship Bond. The conservator must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Nevada 39-39-010	Guardianship Bond. The guardian must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
New Hampshire 40-40-010	Conservatorship Bond. The conservator must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
New Jersey 41-41-010	Guardianship Bond. The guardian must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
New Mexico 42-42-010	Conservatorship Bond. The conservator must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
New York 43-43-010	Guardianship Bond. The guardian must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
North Carolina 44-44-010	Conservatorship Bond. The conservator must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
North Dakota 45-45-010	Guardianship Bond. The guardian must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Ohio 46-46-010	Conservatorship Bond. The conservator must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Oklahoma 47-47-010	Guardianship Bond. The guardian must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Oregon 48-48-010	Conservatorship Bond. The conservator must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Pennsylvania 49-49-010	Guardianship Bond. The guardian must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Rhode Island 50-50-010	Conservatorship Bond. The conservator must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
South Carolina 51-51-010	Guardianship Bond. The guardian must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
South Dakota 52-52-010	Conservatorship Bond. The conservator must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Tennessee 53-53-010	Guardianship Bond. The guardian must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Texas 54-54-010	Conservatorship Bond. The conservator must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Utah 55-55-010	Guardianship Bond. The guardian must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Vermont 56-56-010	Conservatorship Bond. The conservator must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Virginia 57-57-010	Guardianship Bond. The guardian must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Washington 58-58-010	Conservatorship Bond. The conservator must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
West Virginia 59-59-010	Guardianship Bond. The guardian must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Wisconsin 60-60-010	Conservatorship Bond. The conservator must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.
Wyoming 61-61-010	Guardianship Bond. The guardian must execute a bond in favor of the ward and the ward's estate for the full amount of the ward's assets and income.	Not specified.	Not specified.

Introduction¹

In 1986, two Associated Press writers conducted an investigation of guardianship and conservatorship² and came to the conclusion that the system was failing in its purpose.³ The report provided several examples, including some involving misuse of assets by conservators. For instance, in a famous case in New York, “John Zaccaro, the husband of 1984 Democratic vice presidential candidate Geraldine Ferraro, was removed as a conservator after borrowing \$175,000 from his ward’s estate for private investments.”⁴ A wave of recommendations and reforms followed this Associated Press report in an attempt to better protect those under guardianship or conservatorship,⁵ and there continues to be push for reform.⁶

One method of preventing such violations of the fiduciary relationship between the guardian or conservator and the individual is by requiring the fiduciary to post bond. A bond “is like an insurance policy in that an annual premium is paid and the person in guardianship [or conservatorship] is fully protected should the guardian [or conservator] mishandle the liquid assets. While some courts do this as a matter of routine, others do not.”⁷

Several national guardianship/conservatorship standards address the requirement for bonds. The National Probate Court Standards provides, “Except in unusual circumstances, probate courts should require for all conservators to post a surety bond in an amount equal to the liquid assets and annual income of the estate.”⁸ The Uniform Guardianship and Protective Proceedings Act (1998) states, “The court may require a conservator to furnish a bond conditioned upon faithful discharge of all duties of the conservatorship according to law, with sureties as it may specify,” and provides some specifications for such bonds.⁹ The standards resulting from the 2011 *Third*

¹ A prior survey of guardianship/conservatorship bonds was conducted by Jessica Rooks, a 2012 Missouri graduate who is now an estate planning/elder law attorney in Kirksville, Missouri, under the supervision of David English.

² State terms differ. For purposes of this paper, the term “guardian” refers to a court-appointed surrogate of the *person*, and a “conservator” refers to a court-appointed surrogate of the *estate* or *property*, unless otherwise specified.

³ Mary Joy Quinn, *Guardianship of Adult: Achieving Justice, Autonomy, and Safety* 23 (2005).

⁴ *Id.*

⁵ See Quinn, *supra* note 2, at 24-41.

⁶ See Sally Hurme & Erica Wood, *Introduction*, 2012 Utah L. Rev. 1157, at 1157.

⁷ Quinn, *supra* note 2, at 92.

⁸ 2013 National Probate Court Standards, Standard 3.4.15 Bonds for Conservators, available at <http://ncsc.contentdm.oclc.org/cdm/ref/collection/spcts/id/240>.

⁹ See Uniform Guardianship and Protective Proceedings Act (1998), §§ 110 and 414-16 and the comments on those sections. The comment on section 415 states, “Bond for a conservator is required under this Act only if ordered by the court. [...] The bond should be in an amount adequate to guard against financial exploitation of the protected person’s assets by

National Guardianship Summit state, “The conservator shall take all steps necessary to obtain a bond to protect the estate, including obtaining a court order.”¹⁰ This language was adopted into the *National Guardianship Association Standards of Practice* at NGA Standard 18 section IV.¹¹

Many of the states, following suit, have included provisions in their statutes regarding guardian or conservator bonds. However, these statutes contain large differences in the details, allowing courts more or less discretion regarding various aspects of bonding requirements, and there is concern whether that discretion is harmful to the individual under guardianship/conservatorship.¹² This article summarizes state¹³ statutory provisions on general bond requirements, amount of bond, and exceptions.

General Bond Requirements¹⁴

Approximately twenty states require a conservator to post bond,¹⁵ nineteen states require bond while allowing courts some manner of discretion,¹⁶ and twelve states give the court complete discretion to either require or dispense with the bond.¹⁷ Not all of the states include a provision regarding whether guardians are required or not required to give bond. Some simply do not distinguish between guardians and conservators, while others do make a distinction but only state whether a conservator is required to give bond. Of those that do include provisions indicating whether guardians are required to give bond, twelve states require a guardian to give bond,¹⁸

the conservator. The statute assumes the amount will normally equal the value of the estate plus one year’s estimated income. The court is free, however, to set either a lesser or greater amount. The bond should be adequate in all cases, even in cases where the well-meaning relative or friend is appointed as conservator. [...] While this section does not specify factors for the court to consider in deciding whether to require bond, some of the states have enacted such lists.”

¹⁰ *Third National Guardianship Summit Standards and Recommendations*, 2012 Utah L. Rev. 1191, Standard #4.9 at 1195.

¹¹ See National Guardianship Association Standards of Practice, NGA Standard 18 – Guardian of the Estate: Initial and Ongoing Responsibilities, § IV, available at http://www.guardianship.org/documents/Standards_of_Practice.pdf.

¹² Mary Joy Quinn & Howard S. Krooks, *The Relationship Between the Guardian and the Court*, 2012 Utah L. Rev. 1611, at 1651 (Referring to the 1993 National Probate Court Standards and the Uniform Guardianship and Protective Proceedings Act, and stating, “In the time since these standards were articulated, there has been increasing concern at the state and national levels about abuses in guardianship including financial exploitation. [...] Given these realities, it appears that it may be time to reconsider whether bonding should be discretionary.”).

¹³ “State” includes the District of Columbia.

¹⁴ Some of the statutes do not define the term “guardian,” so this summary makes inferences as to whether the statute intended to include conservators or guardians of the property in the bond requirements based on the references to the ward’s estate. This survey includes the District of Columbia.

¹⁵ Ala.Code § 26-3-1; Conn. Gen. Stat. Ann. § 45a-650; Ga. Code Ann. § 29-5-40; 755 Ill. Comp. Stat. Ann. 5/12-2; Kan. Stat. Ann. § 59-3069; Ky. Rev. Stat. Ann. § 387.070; Miss. Code Ann. § 93-13-17; Nev. Rev. Stat. Ann. § 159.065; N.H. Rev. Stat. Ann. §§ 464-A:15 and 464-A:21; N.C. Gen. Stat. Ann. § 35A-1231; Ohio Rev. Code Ann. § 2109.04; Okla. Stat. Ann. tit. 30, § 4-201; R.I. Gen.Laws 1956, § 33-17-1; Tenn. Code. Ann. § 34-1-105; Tex. Est. Code § 1105.101; Vt. Stat. Ann. tit. 14 § 2751; Va. Code Ann. § 64.2-2011; Wash. Rev. Code Ann. § 11.88.100; W. Va. Code § 44A-1-9; Wyo. Stat. Ann. § 2-3-102. Some of these statutes allow statutory exceptions for posting bond.

¹⁶ Ariz. Rev. Stat. § 14-5411; Ark. Code. Ann. §§ 28-67-107, 28-48-206, and 28-65-215; Cal. Prob. Code § 2320-21; Colo. Rev. Stat. Ann. § 15-14-415; Del. Code Ann. tit.12, § 3905; Fla. Stat. Ann. § 744.351; Ind. Code Ann. § 29-3-7-1; Iowa Code Ann. §§ 633.169 and 633.175; La. Code Civ. Proc. Ann. Art. 4563 and 4131; Me. Rev. Stat. Ann. tit. 18-A, § 5-411; Mass. Gen. Laws Ann. Ch. 190B § 5-410; Mo. Ann. Stat. 475.100 and 473.160; Neb. Rev. Stat. § 30-2640; N.D. Cent. Code Ann. § 30.1-29-11; Or. Rev. Stat. § 125.410; 20 Pa.Cons. Stat. Ann. §§ 5121-22; S.C. Code Ann. § 62-5-411; Utah Code Ann. § 75-5-411; Wis. Stat. Ann. § 54.46. Most of these statutes allow courts to reduce or dispense with the bond based upon a showing of “good cause,” or some other standard. Some of these states also allow statutory exceptions for posting bond.

¹⁷ Alaska Stat. § 13.26.215; D.C. Code Ann. § 21-2058; Haw. Rev. Stat. § 560:5-415; Idaho Code Ann. § 15-5-411; Md. Code Ann., Est. & Trusts § 13-208; Mich. Comp. Laws Ann. § 700.5410; Minn. Stat. Ann. § 524.5-415; Mont. Code. Ann. § 72-5-411; N.J. Stat. Ann. § 3B:13A-13 and 3B:15-1; N.M. Stat. Ann. § 45-5-411; N.Y. Mental Hygiene Law § 81.25; S.D. Codified Laws § 29A-5-111. Most of these statutes specify that a court “may require” a conservator to post bond.

¹⁸ 755 Ill. Comp Stat. 5/12-2; Kan. Stat. Ann. § 59-3069; Ky. Rev. Stat. Ann. § 387.070; Miss. Code Ann. § 93-13-17; Nev. Rev. Stat. Ann. § 159.065; N.H. Rev. Stat. Ann. § 464-A:21; R.I. Gen.Laws Ann. § 33-17-1; Tenn. Code. Ann. § 34-1-105;

three states require bond while allowing courts discretion,¹⁹ nine states give the courts complete discretion,²⁰ six states do not require a bond unless the court determines one is necessary,²¹ and two states do not require a bond.²²

Amount of Bond

There is also great variation in the amount of guidance the state statutes provide to courts in determining the amount of the bond. Seven states do not include any specifications whatsoever as to how the amount of bond should be determined.²³ Ten states provide minimal guidance, most merely specifying that the sum should be determined by the court, but a few indicating that the court should take the individual's assets into account.²⁴ Thirty-four states provide some sort of formula, either specifying the elements a court should consider, outlining a minimum, or providing a detailed formula to determine the amount of bond.²⁵ Of those thirty-four, sixteen utilize the same formula, many of them even utilizing the same stock language from the Uniform Guardianship Protective Proceedings Act, or close to it.²⁶

Tex. Est. Code § 1105.101; Vt. Stat. Ann. tit. 14 § 2751; Va. Code Ann. § 64.2-2011; Wash. Rev. Code Ann. § 11.88.100. It is possible that some of these intended to refer solely to guardian of the property, but the statutes often only refer to “guardians.”

¹⁹ Del. Code Ann. tit.12, § 3905; Ind. Code Ann. § 29-3-7-1; Mass. Gen. Laws Ann. Ch. 190B § 5-307. It is possible that some of these intended to refer solely to guardian of the property, but the statutes often only refer to “guardians.”

²⁰ Ark. Code Ann. §§ 28-65-214 and 28-65-216; Conn. Gen. Stat. Ann. § 45a-650; Ga. Code Ann. § 29-4-30; Md. Code Ann., Est. & Trusts § 13-208; Neb. Rev. Stat. § 30-2627; N.Y. Mental Hygiene Law § 81.25; Okla. Stat. Ann. tit. 30, § 4-201; Utah Code Ann. § 75-5-105; W. Va. Code § 44A-1-9.

²¹ Cal. Prob. Code § 2322; Iowa Code Ann. § 633.174; Mich. Comp. Laws Ann. § 700.5313; Ohio Rev. Code Ann. § 2109.04; S.D. Codified Laws § 29A-5-111; Wyo. Stat. Ann. § 3-1-106.

²² N.C. Gen. Stat. § 35A-1230; Wis. Stat. Ann. § 54.46.

²³ Alabama, Connecticut, Kentucky, Minnesota, Vermont, Virginia, Wisconsin.

²⁴ Del. Code Ann. tit.12, § 3905 (“a penal sum to be fixed by the court”); Mass. Gen. Laws Ann. Ch. 190B § 5-410 (“amount established by the court”); Miss. Code Ann. § 93-13-17 (“in such penalty and with such sureties as the court may require”); Mo. Ann. Stat. 475.100 (“approved by the court, [...] with sufficient surety in an amount fixed by the court”); Nev. Rev. Stat. Ann. § 159.065 (“court determines necessary for the protection of the ward and the estate”); N.J. Stat. Ann. § 3B:15-1 (“a sum and with proper conditions and sureties, having due regard to the value of the estate and the extent of the fiduciary's authority, as the court shall approve”); N.Y. Mental Hygiene Law § 81.25 (“fixed by the court”); 20 Pa.Cons. Stat. Ann. § 5121 (“such amount as the court considers necessary”); R.I. Gen. Laws Ann. § 33-17-1 (“any sum as it shall require”); Wash. Rev. Code Ann. § 11.88.100 (“such sum as the court may fix, taking into account the character of the assets on hand or anticipated and the income to be received and disbursements to be made”).

²⁵ Alaska Stat. § 13.26.215; Ariz. Rev. Stat. § 14-5411; Ark. Code Ann. § 28-65-215; Cal. Prob. Code § 2320; Colo. Rev. Stat. Ann. § 15-14-415; D.C. Code Ann. § 21-2058; Fla. Stat. Ann. § 744.351; Ga. Code Ann. § 29-5-41; Haw. Rev. Stat. § 560:5-415; Idaho Code Ann. § 15-5-411; 755 Ill. Comp Stat. 5/12-5; Ind. Code Ann. § 29-3-7-1; Iowa Code Ann. § 633.170; Kan. Stat. Ann. § 59-3069; La. Code Civ. Proc. Ann. Art. 4131; Me. Rev. Stat. Ann. tit. 18-A, § 5-411; Md. Code Ann., Est. & Trusts § 13-208; Mich. Comp. Laws Ann. § 700.5410; Mont. Code Ann. § 72-5-411; Neb. Rev. Stat. § 30-2640; N.H. Rev. Stat. Ann. § 464-A:21; N.M. Stat. Ann. § 45-5-411; N.C. Gen. Stat. § 35A-1231; N.D. Cent. Code Ann. § 30.1-29-11; Ohio Rev. Code Ann. § 2109.04; Okla. Stat. Ann. tit. 30, § 4-201; Or. Rev. Stat. § 125.410; S.C. Code Ann. § 62-5-411; S.D. Codified Laws § 29A-5-111; Tenn. Code Ann. § 34-1-105; Tex. Est. Code § 1105.152; Utah Code Ann. § 75-5-411; W. Va. Code § 44A-1-9; Wyo. Stat. Ann. § 2-3-102.

²⁶ “Unless otherwise directed by the court, the bond must be in the amount of the aggregate capital value of the property of the estate in the conservator's control, plus one year's estimated income, and minus the value of assets deposited under arrangements requiring an order of the court for their removal and the value of any real property that the fiduciary, by express limitation, lacks power to sell or convey without court authorization..” UGPPA § 415. Alaska Stat. § 13.26.215; Ariz. Rev. Stat. § 14-5411; Colo. Rev. Stat. Ann. § 15-14-415; D.C. Code Ann. § 21-2058; Haw. Rev. Stat. § 560:5-415; Idaho Code Ann. § 15-5-411; Ind. Code Ann. § 29-3-7-1; Me. Rev. Stat. Ann. tit. 18-A, § 5-411; Mich. Comp. Laws Ann. § 700.5410; Mont. Code Ann. § 72-5-411; Neb. Rev. Stat. § 30-2640; N.H. Rev. Stat. Ann. § 464-A:21; N.M. Stat. Ann. § 45-5-411; N.D. Cent. Code Ann. § 30.1-29-11; Or. Rev. Stat. § 125.410; Utah Code Ann. § 75-5-411. Indiana uses the same formula, but very different language.

Statutory Exceptions

Eighteen states do not list any statutory exceptions to the bond requirement,²⁷ but the remaining states provide exceptions for which a court may or shall dispense with the bond. Twenty states allow exemptions for state officials like sheriffs, financial institutions or other corporate guardians, state-sponsored guardianship programs, and the like.²⁸ Alabama, for instance, does not require a bond prior to issuing letters of conservatorship to the general conservator or to the sheriff.²⁹ Seven states provide an exemption for limited guardians, restricted accounts, or an estate with limited assets or one consisting solely of public benefits.³⁰ Thirteen states created exceptions for guardians nominated by a person who has waived the bond requirement, sometimes specifically by will or a power of attorney.³¹ Three states provide exemptions for particular family members.³² Seven states provide discretionary exceptions, where the court may waive the bond requirement if certain conditions, such as those previously mentioned, are met.³³

Conclusion

Bonds are used as a tool to ensure guardian and conservator accountability. As stated in an article by Mary Joy Quinn and Howard S. Krooks, which applies to both guardians and conservators:

*Judges can “call in the bond” if assets are inadequately managed or actually taken by the guardian. The bonding company will then give the person in guardianship the same amount that was taken or mismanaged and then attempt to collect from the (perhaps former) guardian. Bonds help keep guardians honest. If the guardians fully understand that their own personal assets are at risk, they could be more careful with the assets of the estate of the person in guardianship.*³⁴

²⁷ Colorado, Connecticut, District of Columbia, Hawaii, Idaho, Louisiana, Minnesota, Mississippi, Montana, New Mexico, New York, North Dakota, South Carolina, South Dakota, Utah, Vermont, Virginia, Wisconsin.

²⁸ Ala.Code § 26-3-1; Alaska Stat. § 13.26.215; Ariz. Rev. Stat. § 14-5411; Fla. Stat. Ann. § 744.351; Ga. Code Ann. § 29-5-40; Ind. Code Ann. § 29-3-7-1; Iowa Code Ann. § 633.172; Me. Rev. Stat. Ann. tit. 18-A, § 5-411; Md. Code Ann., Est. & Trusts § 13-208; Mich. Comp. Laws Ann. § 700.5410; Mo. Ann. Stat. 473.160; Neb. Rev. Stat. § 30-2640; Nev. Rev. Stat. Ann. § 159.065; N.J. Stat. Ann. § 3B:15-1; Ohio Rev. Code Ann. § 2109.04; Or. Rev. Stat. § 709.240; 20 Pa.Cons. Stat. Ann. § 5122; Tex. Est. Code § 1105.101; Wash. Rev. Code Ann. § 11.88.107; W. Va. Code § 44A-1-9.

²⁹ Ala.Code § 26-3-1. “The judge of probate may appoint a general conservator for the county who must be appointed and act as a conservator when no other fit person applies for appointment and qualifies. The term of office of such general conservator shall continue during the term of the judge by whom he or she is appointed, unless he or she is reappointed. If he or she is reappointed, his or her bond, if deemed sufficient, shall remain as a continuing security, or he or she may be required to execute a new bond.” Ala.Code § 26-2-26.

³⁰ Cal. Prob. Code §§ 2323-24; Ky. Rev. Stat. Ann. § 387.070; Md. Code Ann., Est. & Trusts § 13-208; Mich. Comp. Laws Ann. § 700.5410; Nev. Rev. Stat. Ann. § 159.065; N.H. Rev. Stat. Ann. § 464-A:21; N.J. Stat. Ann. § 3B:15-1.

³¹ Cal. Prob. Code §§ 2323-24; Iowa Code Ann. § 633.172; Ky. Rev. Stat. Ann. § 387.070; Md. Code Ann., Est. & Trusts § 13-208; Mass. Gen. Laws Ann. Ch. 190B § 5-410; Neb. Rev. Stat. § 30-2640; Nev. Rev. Stat. Ann. § 159.065; N.C. Gen. Stat. § 35A-1212.1; Ohio Rev. Code Ann. § 2109.04; 20 Pa.Cons. Stat. Ann. § 5122; R.I. Gen.Laws Ann. § 33-17-4; Tex. Est. Code § 1105.101; Wash. Rev. Code Ann. § 11.28.185.

³² Me. Rev. Stat. Ann. tit. 18-A, § 5-411 (exempting spouses from the bond requirement); N.J. Stat. Ann. § 3B:15-1 (exempting from bond requirement any “family member within the third degree of consanguinity of the person with a developmental disability”); R.I. Gen. Laws Ann. § 33-17-1.3 (stating, “No surety shall be required on any bond of a guardian of the person and/or estate when the guardian is the spouse, parent, child, brother, sister, or other heir at law of the ward if the guardian demonstrates to the satisfaction of the probate court that circumstances warrant the waiver of surety and/or that no surety should be required.”).

³³ Ark. Code. Ann. § 28-48-206; Del. Code Ann. tit.12, § 3905; 755 Ill. Comp Stat. 5/12-6; Kan. Stat. Ann. § 59-3069; Okla. Stat. Ann. tit. 30, § 4-201; Tenn. Code. Ann. § 34-1-105; Wyo. Stat. Ann. § 2-3-111.

³⁴ Mary Joy Quinn & Howard S. Krooks, *The Relationship Between the Guardian and the Court*, 2012 Utah L. Rev. 1611, at 1649.

Although some have argued against requiring bonds because it could reduce the pool of people willing to serve and might be a difficult requirement for family members to meet, others have cited the necessity of bonds to make guardians and conservators more accountable.³⁵

However, the inquiry ought not to stop here. Some courts may provide additional guidance in their own court rules to make up for the lack of guidance in the statute. Research into those court rules would be the first step to continuing this inquiry. Additionally, sometimes there may be a difference between the statute and practice, providing further complications. As noted in an article by Sally Hurme and Erica Wood, “Guardianship [and conservatorship] practice . . . did not automatically follow changes in law and lofty recommendations,” citing to a study in 1994 that noted deficiencies in court proceedings.³⁶ Thus, the second step would be to conduct research as to court practices, and whether they conform to statutory requirements and court rules.

Further difficulty arises in determining the actual effect of bond requirements. It may be possible to measure how often judges call in the bonds in different jurisdictions, but even if such a study were to be conducted, it would not reveal the number of conservators or guardians who are dissuaded from misusing the property with which they have been entrusted. Because of this, determining which types of guardian and conservator bond statutes are the most effective for ensuring accountability is incredibly difficult. Further research is needed on the requirements of guardian and conservator bonds set forth in court rules, the court practices regarding those bonds, and the effect that these requirements and practices have on the behavior of guardians and conservators.

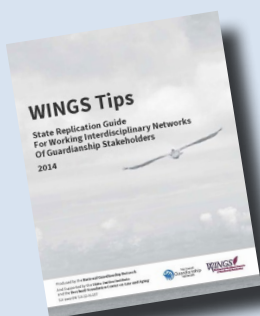
For more details, please visit our website to download a complete [Conservatorship and Guardianship Bonds: State Statutory Requirements](#) chart.

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³⁵ Hurme and Wood, *supra* note 4, at 1186. “Standard #4.9, requiring the conservator to obtain a bond, engendered considerable contention in the Working Group on Guardian Financial Decision-Making as well as the plenary session. There was a recognition that it can be difficult for an individual conservator such as a family member to secure a bond, and that in some areas bonds can be highly priced. Nonetheless, it was argued, the estate must be protected, and the Standard indicates that the conservator shall ‘take all steps’ to get a bond including ‘obtaining a court order’—which in some cases, according to the group, can be helpful in working with bond companies.”

³⁶ Hurme and Wood, *supra* note 4, at 1160.

New Guardianship Publication Available



WINGS Tips: State Replication Guide For Working Interdisciplinary Networks Of Guardianship Stakeholders is now available online!

Working Interdisciplinary Networks of Guardianship Stakeholders (WINGS) are broad-based, collaborative working groups that drive changes that affect the ways courts and guardians practice, and improve the lives of people who have or may need guardians.

This publication, produced by the Commission on behalf of the National Guardianship Network, highlights the hallmarks of successful WINGS groups and outlines ten steps for launching and maintaining your own WINGS program.

Download ***WINGS Tips*** by visiting our [Guardianship Resources webpage](#).

World Congress on Adult Guardianship Highlights International Perspectives

by Erica Wood



Hon. Kathy Greenlee, Administrator for Community Living and Assistant Secretary for Aging, U.S. Department of Health and Human Services speaks on “The Importance of Self.” (photo: Rachel Jarabeck)



Sharon Lewis, Principal Deputy Administrator, Administration for Community Living, U.S. Department of Health and Human Services, discussed community living for people with disabilities in the United States. (photo: Rachel Jarabeck)

Over 360 participants from 22 countries on six continents came together on May 28–30 at the 2014 World Congress on Adult Guardianship. The lively three-day event offered those involved in guardianship and decision-making a rare opportunity to share problems and solutions with peers from other countries. The theme of the multi-cultural Congress was “Promising Practices to Ensure Excellence in Guardianship Around the World.”

The Congress featured 42 general and breakout sessions including a keynote presentation by Hon. Kathy Greenlee, Administrator for Community Living and Assistant Secretary for Aging, U.S. Department of Health and Human Services. In her talk entitled “The Importance of Self,” Assistant Secretary Greenlee challenged guardians to support people’s sense of self, and to look toward the assets and not the limitations of those they serve. “At 90,” she said, “what you have more than anything else is your self. Can you be yourself in a guardianship? It all starts with knowing more about the lives and the hopes and the goals and the self of that person.”

Comparative panels and workshops highlighted a universal need to address the growing population of older persons and individuals with disabilities, and outlined a variety of decision-making approaches in law and practice. While many sessions focused on improving guardianship systems, others explored an array of less restrictive options, including supported decision-making as set out in the U.S. Convention on the Rights of Persons with Disabilities.

Sharon Lewis, Principal Deputy Administrator, Administration for Community Living, U.S. Department of Health and Human Services, discussed community living for people with disabilities in the United States, as called for by the integration mandate of the Americans with Disabilities Act. She then announced that the Administration on Community Living is seeking to fund a Supported Decision-Making Technical Assistance and Resource Center. Jenny Hatch, an individual with Down Syndrome, told a heart-rending story of securing her rights.

A showcase panel on guardianship reform in Asia, moderated by University of Missouri Law Professor David English—who is also Chair of the ABA Commission on Law and Aging—brought together experts from Japan and China, who described recent changes in the law, as well as those still

needed. Diverse workshop topics ranged from capacity assessment in Australia and elder abuse prevention in Germany to decision-making options for young adults in Korea and the role of government fiduciaries in Singapore—and much more. Workshop presenters explored guardian qualifications, court monitoring, undue influence, jurisdictional concerns, mediation, human rights, veterans and disability benefits and other issues from differing perspectives.

World Congress participants came, speaking many languages, from Europe, Asia, North America, and Australia—as well as first-time representatives from Africa (Nigeria) and South America (Argentina). All were eager to learn from each other and compare practices.

Convened at Arlington, Virginia, the 2014 World Congress was hosted by the National Guardianship Network, which includes 11 U.S. national organizations dedicated to effective adult guardianship law and practice, in affiliation with the International Guardianship Network. It was the third such worldwide event, following the 2010 World Congress in Yokohama, Japan, and the 2012 World Congress in Melbourne, Australia. The fourth World Congress will be in Berlin, Germany in 2016. The Congress was supported by the NGN organizations, the Borchard Foundation Center on Law & Aging, and the ACTEC Foundation. Co-Chairs of the World Congress Planning Committee were Sally Hurme of the Center for Guardianship Certification Board and Kim Grier, President of the National Guardianship Association.

The *Journal of International Aging, Law & Policy*, a publication of Stetson University College of Law, invited Congress presenters and participants to submit papers. In addition, a goal of the Congress was to form an online International Resource Library on Adult Guardianship by collecting the presentations, brochures, manuals, handbooks and other materials that could be of help worldwide. There is also a World Congress app. It is available for Apple and Android devices by searching “world congress guardianship” on the App Store or Google Play.

Erica Wood is the Assistant Director of the American Bar Association's Commission on Law and Aging in Washington, DC. ■



Erica Wood, Assistant Director of the ABA Commission Law and Aging and member of the World Congress Planning Committee, speaking about how volunteers can strengthen guardianship systems. (photo: Rachel Jarabeck)



A showcase panel on guardianship reform in Asia, moderated by Professor David English, Chair of the ABA Commission on Law and Aging, brought together experts from Japan and China. (photo: Rachel Jarabeck)

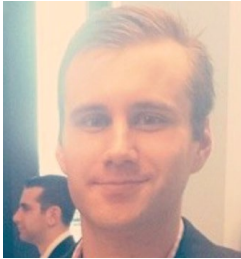


Jenny Hatch, an individual with Down Syndrome, spoke about her personal experience in securing her rights on a panel about supported decision-making. (photo: Rachel Jarabeck)

Summer 2014 Interns

The Commission's robust internship program hosts students year-round in Washington, DC. To learn more, contact David Godfrey, Senior Attorney, at David.Godfrey@americanbar.org.

Zach Chapman



Zach Chapman is a rising third-year law student at Villanova University School of Law in Villanova, PA. Mr. Chapman received a B.A. in Economics and a B.A. in Political Science from the University of North Carolina at Chapel Hill.

During his first year of law school, Mr. Chapman was named a Walter Lucas Public Interest Fellow. With the fellowship, Mr. Chapman spent his first summer working with Mazzoni Center Legal Services, an LGBT organization that serves Philadelphia and surrounding parts of Pennsylvania. At Mazzoni Center, Mr. Chapman worked on employment discrimination cases, provided name changes for transgender individuals, and created estate planning documents for low-income LGBT individuals.

This summer Mr. Chapman is working with senior attorney David Godfrey researching possible solutions to ensure Social Security is solvent for future generations. With that information, Mr. Chapman will create an article outlining possible reforms that need to happen to ensure Social Security exists as the aging population increases.

After graduation, Mr. Chapman plans to return to Washington, DC, to begin his legal career.

Shana Wynn



Shana Wynn is a third-year law student at North Carolina Central University School of Law in Durham, NC. Ms. Wynn received her B.A. in Political Science from Winston-Salem State University in 2012.

Currently, Ms. Wynn serves as the student chair of NCCU School of Law's Elder Law Pro Bono Program, working with attorneys and students to provide estate planning documents to low income North Carolinians.

After her first year of law school, Ms. Wynn served as an Equal Justice Works AmeriCorps Legal Fellow at Legal Services of Southern Piedmont in Charlotte, NC. While there she worked in the Family Support and Healthcare division where she assisted clients with public benefits hearings and Medicaid appeal cases. Ms. Wynn also spent time researching the Program for All-Inclusive Care for the Elderly, which offers seniors a community-based alternative to nursing home care. As a result of this research, she gained a great interest in elder law issues such as long-term health care planning.

This summer Ms. Wynn will be working with Director Charles Sabatino on health care decision-making issues with a focus on researching default surrogate consent statutes. After the statutory chart updates are completed, Ms. Wynn will write an article tracking the recent progression of these laws. ■

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Discussion Lists

- *Elderbar*, an open discussion list for professionals in law and aging, and
- *Collaborate*, a discussion list on aging, disability, and dispute resolution.

Visit the www.americanbar.org/aging for more information on how to sign up.

From Commission Research to ABA Policy

How a Commission on Law and Aging Study Led to ABA Policy on Court-Focused Elder Abuse Initiatives

by Lori A. Stiegel

In August 2012, the ABA House of Delegates adopted a policy sponsored by the Commission on Law and Aging and co-sponsored by the Senior Lawyers Division, among others. The policy:

- Urges state, territorial, tribal, and local courts and community organizations to collaborate in establishing court-focused elder abuse initiatives that serve victims or potential victims of elder abuse through either a court or a court-based program or a program conducted in partnership with a court;
- Urges such court-focused elder abuse initiatives to, as appropriate for each initiative and each jurisdiction, implement the following principles:
 1. Foster improved handling of elder abuse cases by the court and justice system;
 2. Have a positive impact on victims;
 3. Strengthen intra-court coordination of cases involving elder abuse;
 4. Be vigilant in assessing and addressing conflicts of interest and other ethical issues;
 5. Foster judicial leadership in the community's response to elder abuse;
 6. Create professional and public awareness of the initiative's services and of elder abuse; and
 7. Strive to institutionalize the initiative within the court or community organization.
- Urges all courts and community organizations involved in court-focused elder abuse initiatives to develop comprehensive plans for collecting data for purposes of program administration and evaluation.

This policy augments ABA support for efforts to enhance access to justice for victims of elder abuse. The policy was needed because the older adult population is expanding and the incidence of elder abuse is growing with it. Public and professional awareness efforts that may uncover more incidents are developing rapidly. Simultaneously, state legislative action, training initiatives, and recognition of the value of legal remedies are increasing the number of cases involving elder abuse heard by state courts. These factors are motivating state courts to improve the response of the civil and criminal justice systems to victims and witnesses in elder abuse cases.

The policy was informed by research conducted by the ABA Commission on Law and Aging and the University of Kentucky College of Public Health Graduate Center for Gerontology with funding from the U.S. Department of Justice's National Institute of Justice.

The researchers assessed the five court-focused elder abuse initiatives that existed when the project began in 2007.

Researchers
assessed five
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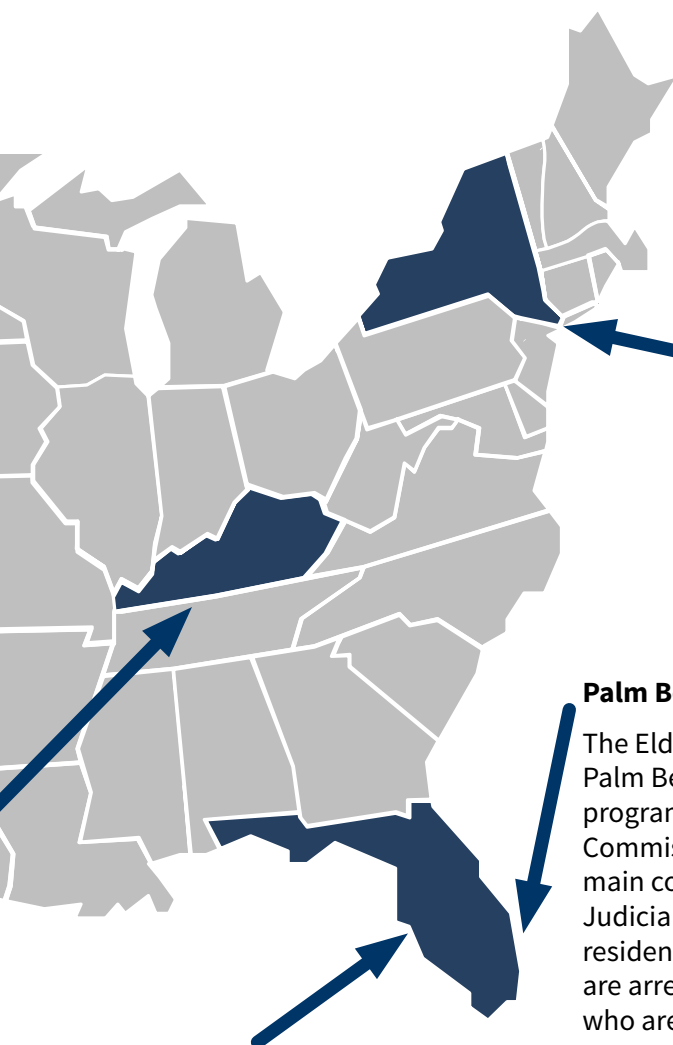


Alameda County, California

The Elder Protection Court (EPC) is a special civil and criminal docket for elder abuse cases, including elder abuse protection order cases, in the Superior Court of Alameda County, California. Akin to the family violence coordinating councils that many courts lead, the EPC convenes and leads an Elder Access Committee, drawing together representatives of various agencies and disciplines concerned about elder abuse. The committee meets quarterly over lunchtime at the courthouse, providing opportunities for discussion about challenges, resources, training opportunities, collaboration, and more.

Jefferson County, Kentucky

The In-Home Emergency Protective Order Initiative (IEPOI) in Jefferson County, Kentucky, helps medically fragile/homebound victims of abuse age 60 and older obtain emergency protective orders and longer-term domestic violence orders by telephone without having to leave their homes. The initiative is a partnership of several agencies: ElderServe Inc., a nonprofit provider of aging services that administers the initiative; the Circuit Court Clerk's Office; the Family Court; the County's Adult Protective Services Office, and the Sheriff's Office.



Kings County, New York

The Elder Temporary Order of Protection Initiative (ETOP) in Kings County, New York, is sponsored by the New York City Family Justice Center in Brooklyn. The initiative assists eligible victims of domestic violence who are age 60 or older and unable to travel and appear in court personally or for whom it is a great hardship due to infirmity or disability in obtaining temporary orders of protection.

Social workers and lawyers from the New York City Department for the Aging and the Jewish Association Serving the Aging Legal/Social Work Elder Abuse Program are available to provide emergency counseling, direct services, and other information regarding services for the elderly. The Family Court and its Clerk's Office also play significant roles in the initiative.

Palm Beach County, Florida

The Elder Justice Center (EJC) in Palm Beach County, Florida, is a program of the Board of County Commissioners and is housed in the main courthouse of the Fifteenth Judicial Circuit Court. The EJC helps residents age 60 and older who are arrested for certain crimes or who are involved in guardianship proceedings or other court-related matters.

The program provides assistance—but not legal advice—in completing court forms such as applications for protective orders, guardianship investigations or monitoring upon request of the probate judge, referrals to legal and social services programs in the community, and accompaniment to civil and criminal hearings. In certain criminal cases, the EJC identifies older criminal defendants who may have dementia or other cognitive problems and provides information to the court to help it determine whether those defendants should be diverted from jail into mental health or substance abuse treatment programs.

Hillsborough County, Florida

The Elder Justice Center (EJC) in Hillsborough County, Florida, is a program of the Thirteenth Judicial Circuit Court that provides residents age 60 and older with assistance—but not legal advice—in completing court documents such as applications for protective orders, referrals to legal and social services programs in the community, and case management services in guardianship matters. The EJC staff monitors guardianship cases. They also act as advocates for older crime victims and, if the victim desires, can help older criminal defendants by providing referrals to diversionary programs such as mental health or substance abuse treatment programs.

Findings from Our Research

The researchers interviewed 92 key stakeholders—89 professionals and three victims—using six standardized data-collection instruments. We reviewed 68 court case files that had been closed during a common one-year period (June 1, 2007, to May 30, 2008). In Alameda County, we also observed EPC proceedings.

Data collected demonstrate that, overall, the initiatives foster:

- Greater access to justice and better court outcomes for victims because of court accommodations, increased knowledge about elder abuse among judges and other professionals, and provision of emotional support during the court process;
- Efforts that help enhance victim safety, prevent further abuse, and also facilitate prosecution, such as monitoring of guardianship cases for abuse, helping older persons (homebound or not) obtain orders of protection, and referring or linking victims to other services;
- Improved linkages between the courts, prosecutors, law enforcement, and other service providers that help those entities to better handle their elder abuse cases and ensure that victims are referred to other services that may prevent future court cases;
- More efficient handling of and fewer delays in elder abuse cases; and
- Enhanced professional and public awareness of the problem of elder abuse.

The researchers also found that significant weaknesses in data collection and the resulting lack of evaluation posed real challenges to efforts to continue the existing initiatives and to replicate them in other communities. Policymakers and funders increasingly demand evidence that programs work and that money will be well invested. New programs face great risk if they are unable to provide such evidence or demonstrate that they will provide data for an evaluation of outcomes, that is, of impact on

older persons, the court, or other stakeholders. Evaluation of outcomes is more difficult, but also more meaningful, than measurement of “outputs,” such as number of people served.

Conclusions and Recommendations

The assessment of the five court-focused initiatives conducted by the Commission and the University of Kentucky revealed that the initiatives are conducting important and cutting-edge work to improve the response of the judicial system to elder abuse victims and, in one community, to older criminal defendants with mental impairments. Stakeholders expressed strong beliefs that the initiatives improve handling of elder abuse cases and enhance the response to elder abuse by the judicial system while having either a positive or neutral impact on their own agencies. Victims and the professionals serving them indicated that they have a more positive interface with each other and with the system. Stakeholders agreed that the initiatives project a positive image of the courts to the public—especially important in an era of service scrutiny and fiscal challenges.

Additional court-focused elder abuse initiatives have been developed since the Commission’s research project commenced. These include the Elder Protection Court of the Superior Court of Contra Costa County, California; the Senior Court program of the Probate Court of Trumbull County, Ohio; and the Elder Law and Miscellaneous Remedies Division of the Circuit Court of Cook County, Illinois (described [in *Experience* Vol. 24, No. 1, 2014 and] in *Experience* Vol. 22, No. 2, 2012 by Presiding Judge Patricia Banks).

Judges, court administrators, service providers, policymakers, and funders in other communities should give serious consideration to supporting implementation of similar efforts, even in these times of limited resources. The five initiatives already demonstrate that these endeavors can be conducted successfully with limited financial support, although it is obvious that they could accomplish much more if they had adequate funding.

Efforts to replicate or build upon any of these initiatives should plan for data collection and evaluation from day one; opportunities will be lost if assessment is an afterthought. Work backwards: think about what might be needed to demonstrate the value of the initiative and then determine whether current data collection practices enable future evaluation. If they do not, discuss which practices can and should be changed. Consider partnering with universities. Professors and doctoral or masters' degree students in fields such as criminal justice or gerontology could be eager to participate in planning for and conducting evaluations of new initiatives and to develop expertise that is of particular interest to funders, policymakers, and program administrators.

Lori A. Stiegel is a Senior Attorney at the American Bar Association's Commission on Law and Aging in Washington, DC.

The research project described in this article was supported by Award No. 2007-IJ-CX-0107 from the National Institute of Justice, Office of Justice Programs, U.S. Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this article are those of the author and do not necessarily reflect the views of the Justice Department.

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Survey of Lawyers Elder Investment Fraud and Financial Exploitation



The American Bar Association (ABA) and the Investor Protection Trust (IPT)/Investor Protection Institute (IPI) are collaborating to establish the **Elder Investment Fraud and Financial Exploitation Prevention Program - Legal**.

Through this collaboration, the ABA Commission on Law and Aging will develop a model CLE program on this growing and costly problem.

Please take five minutes of your time to inform this effort by completing our short online survey. Your responses will give us a better understanding of front-line legal professionals who deal with older victims of investment fraud and financial exploitation.

We respect your privacy and will not use your information or responses in any way other than in aggregate results. If you have questions about this, please contact Cheri Meyer at meyer@investorprotection.org.

You can take the survey today at: http://fluidsurveys.com/s/IPT-IPI-ABA_EIFFE_Legal_2014.

The survey will close at 5 p.m. EDT on July 14, 2014.

Thanks for taking part in this important effort!

Charles P. Sabatino
ABA Commission on Law and Aging

Don M. Blandin
Investor Protection Trust
Investor Protection Institute ■



Commission Publication

Checklist for an Elder-Friendly Law Office



As the American population ages, accommodating the needs of older Americans becomes more and more important to a myriad of businesses.

An elder-friendly law office is one that provides spatial and social accommodations for disabilities prevalent among older persons such as hearing loss, visual impairment, and mobility limitations.

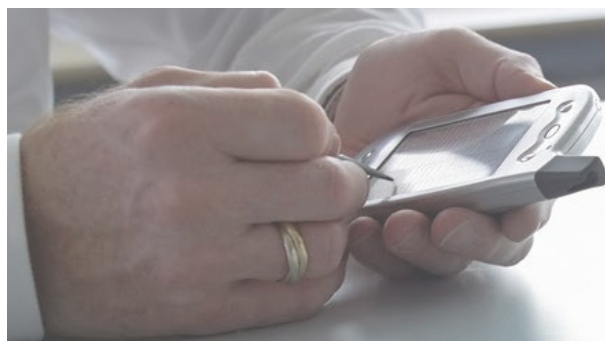
By complying with the American with Disabilities Act (ADA) Accessibility Guidelines and making the other practical design decisions highlighted in this 22-page publication, you can improve an older client's experience in your office.

Product Code: 4280031PDF

Publication Date: December 2013

Price: \$19.95

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Get Connected, Stay Connected, on Elderbar

Join **Elderbar**, the discussion list that brings together public and private sector legal advocates and the aging network.

Elderbar gives you the opportunity to communicate across the boundaries of the law and aging networks and the public and private legal sectors. Share ideas and information about programs, bar section and committee activities, and learn how others are responding to the increasing demand and finite funding for legal services for seniors.

Elderbar is a project of the **ABA Commission** as part of its role in the National Legal Resource Center, funded by the Administration on Aging.

It is a closed list; messages can only be posted and read by members.

To get connected to **Elderbar** send your name, e-mail address, and professional affiliation to david.godfrey@americanbar.org. ■

ABA Annual Meeting CLE Showcase Program

August 9, 2014 • 10:30 a.m. – 12:00 p.m.

Hynes Convention Center • Boston, Massachusetts

The Epidemic of Elder Financial Exploitation

Ethical Traps for Lawyers & Skills Every Lawyer Needs

Elder financial exploitation (EFE) costs victims, families, governments, and businesses more than \$2.9 billion annually and affects millions of older persons. Every lawyer needs to know how EFE may affect them personally and professionally.

The sensational Brooke Astor case demonstrates that a lawyer who is ignorant of EFE may fail to protect the client from harm or unwittingly participate in the client's victimization, possibly leading to professional discipline, liability, or even criminal charges.

National experts will:

1. Present demographic trends that increase the likelihood that lawyers will deal with diminished financial capacity and EFE in their families and in their work;
2. Use the Astor case to pose ethical and practical dilemmas and provide tips for addressing those challenges; and
3. Teach signs of vulnerability to EFE and recommended options for responding.

Following opening remarks by **ABA President James Silkenat**, Commission on Law & Aging Chair **David M. English** will moderate.

Faculty:

- **Dr. Daniel C. Marson**, clinical neuropsychologist and professor in the Department of Neurology at the University of Alabama at Birmingham, will discuss research on financial decision-making capacity that explains vulnerability to EFE.
- **Lori Stiegel**, attorney at the ABA Commission, will provide an overview of the many forms of elder financial exploitation.
- **Bruce S. Ross**, a member of the legal team representing Mickey Rooney against his exploiter, will discuss ethical issues and rules to consider when representing older clients.
- **Elizabeth Loewy**, a lead prosecutor of the Brooke Astor case, will address what her office considers when investigating attorneys involved in questionable trust and estate matters related to older or impaired clients.
- **Patricia D. Struck**, Wisconsin's state securities regulator and a former trustee of the Investor Protection Trust, will speak about the role of securities regulators in educating investors and protecting them from fraud.

MAGNITUDE³⁶⁰
@ 2014 ABA ANNUAL MEETING

**AUG 8-10
BOSTON**



Annual Meeting program cosponsored by:

- Business Law Section
- Center for Human Rights
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- Commission on Homelessness & Poverty
- Commission on Disability Rights
- Commission on Domestic & Sexual Violence
- Criminal Justice Section
- Health Law Section
- Real Property, Trust and Estate Law Section
- Senior Lawyers Division
- Solo Small Firm & General Practice Division
- Standing Committee on Lawyers' Professional Liability
- Tort Trial & Insurance Practice Section

Program Background

This Annual Meeting program is the kick-off event of the **Elder Investment Fraud and Financial Exploitation (EIFFE) Prevention Program — Legal** which is a collaboration between the ABA Commission on Law and Aging, the Investor Protection Trust, the Investor Protection Institute, and state securities regulators' offices and state bar associations.

Contact

For more information, contact
ABA Commission Senior Attorney
Lori Stiegel at Lori.Stiegel@americanbar.org.

MAGNITUDE³⁶⁰
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New National Aging and Law Conference

October 16 & 17, 2014
Washington, DC

Conference space is limited—
register early!

This October 16-17, the Commission on Law and Aging will sponsor the National Aging and Law Conference in Washington, DC. This year's conference theme is: *50th Anniversary of the War on Poverty: Progress & Challenges for the Future.*

Early registration runs through September 3rd.

For information, contact David Godfrey at:
David.Godfrey@Americanbar.org.



Conference website:
www.ambar.org/nalc2014



Facebook page:
<http://t.co/fWDko0uL1R>



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23 workshops and plenary sessions including

Ten Questions to Challenge Your Ethical Acumen

- Charlie Sabatino, Commission on Law & Aging
- David Godfrey, Commission on Law & Aging

After Windsor: How the Demise of DOMA Affects LGBT Seniors

- Aaron Tax, Services and Advocacy for GLBT Elders
- Karen Loewy, Lambda Legal
- Kate Lang, National Senior Citizens Law Center
- Webster Phillips, National Committee to Preserve Social Security and Medicare

Using the ADA to Take on the Government Accessing Essential Benefits and Services for Seniors

- Greg Bass, National Center for Law and Economic Justice
- Julie Nepveu, AARP Foundation
- Lizbeth Ginsburg, Greater Boston Legal Services

CLE
webinar on
guardianship
standards

What is a Good Guardian?

Understanding and Using National Guardianship Standards

Presented by: The ABA Commission on Law & Aging, Senior Lawyers Division, Section of Individual Rights and Responsibilities, and the Center for Professional Development

Be in-the-know about the new National Guardianship Association Standards of Practice. Lawyers can benefit from a thorough understanding of the new Standards in their roles representing respondents, petitioners, guardians/conservators; serving as guardians ad litem; and serving as guardians/conservators.

The Standards represent the distilled thinking of many practitioners and experts over many years on guardian/conservator best practices.

The webinar speakers will examine selected highlights of the Standards and present case scenarios in which the Standards could be a critical practice tool.

Wednesday, August 20 • 1:00 – 2:30 Eastern

Faculty:

- **Sally Hurme**, AARP Health Education, Washington, DC
- **Erica Wood**, Assistant Director, ABA Commission on Law & Aging, Washington, DC

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