The ABA Commission on Law and Aging has initiated a project to help state and national organizations establish the Physician’s Orders for Life-Sustaining Treatment (POLST) protocol. The POLST protocol is designed to improve end-of-life care by converting patients’ treatment preferences into medical orders that will follow them throughout the health care system.

Encouraging health care providers to help their patients both in care planning and in making sure their preferences are honored is a communication, systems, and implementation challenge. Increasingly, health care provider organizations are looking for direction on how best to implement POLST practices.

Continued on next page
**POLST Project**

*Continued from page 115*

Working under a grant from the AARP Public Policy Institute, the ABA Commission embarked upon an exploratory case study designed to gather and examine the experiences of 13 states that currently employ some variant of the POLST protocol. **Charlie Sabatino, director of the ABA Commission on Law and Aging**, will develop, with input from an expert advisory panel, a set of issue narratives of the states through an examination of stakeholder interviews and legislative and regulatory data.

The project will produce and disseminate a research report aimed at increasing understanding of POLST procedures and facilitating the development of POLST in states that don't yet use it. The report will include a description of POLST implementation challenges and ways that states have met them. The report also will include a legislative and regulatory table comparing key features of each state’s POLST law and protocol.

As the year-long research draws to a close, the project will convene a roundtable of POLST experts and state and national stakeholders to discuss the research findings and to develop new strategies for promoting the use of POLST.

Stay tuned for more information about the project in upcoming issues of *Bifocal*, and on the ABA Commission’s Web page at www.abanet.org/aging.

---

**Grant Opportunity**

The Borchard Foundation Center invites applications for its 2010-2011 academic research grant program. The program annually awards up to four one-year grants of $20,000 each.

The Borchard Foundation Center on Law and Aging’s academic research grant program is intended to further scholarship about new or improved public policies, laws, and programs that will enhance the quality of life for the elderly (including those who are poor or otherwise isolated by lack of education, language, culture, disability, or other barriers).

The center expects grantees to meet the objectives of the grant program through individual or collaborative research projects that analyze and recommend changes in one or more important existing public policies, laws, or programs relating to the elderly; or anticipate the need for and recommend new public policies, laws, and programs for the elderly necessitated by changes in the number and demographics of the country’s and the world’s elderly populations, by advances in science and technology, by changes in the healthcare system, or by other developments. Each grant recipient is required to publish an article on the subject of their research in a first-rate journal.

The program is open to all interested and qualified legal, health sciences, social sciences, and gerontology scholars and professionals. Two or more individuals in the same institution or different institutions may submit a collaborative proposal. Grant recipients must be U.S. citizens or legal residents of the U.S. and must be affiliated with a U.S.-based institution or organization.

For more information, go to: http://www.borchardcenter.org/academic-research-grant-program/grant-application-process.

**The deadline for applications is October 15.**
Health Care Decision Making

Adapt Making Medical Decisions for Someone Else for Your State—We’ll Help!

In commemoration of the one-year anniversary of Terri Schiavo’s death, the ABA Commission on Law and Aging and the Maryland Office of the Attorney General published two self-help guides for adults in Maryland acting as a health care proxy. A health care proxy is anyone serving as a substitute decision maker—as an agent under a durable power of attorney for health care, as a family member or close friend, or as a guardian appointed by the court.

Making Medical Decisions for Someone Else: A Guide for Virginians is a short consumer-friendly pamphlet that presents key information about the role of a health care proxy in Maryland. The second guide is a more detailed, Web-based document called Making Medical Decisions for Someone Else: A Maryland Handbook. It includes steps for making health care decisions and resources for resolving disputes and getting additional help, as well as information addressing specific situations—such as dealing with grief, pain, emergencies, DNR orders, surgery, artificial nutrition and hydration, and medical research. It also includes hyperlinks to yet more detailed information.

Adapting these guides for your state is an excellent project for bar association sections or committees on aging, in collaboration with other state groups.

“The health care proxy role never existed before the advent of modern medical technology,” said Charles P. Sabatino, director of the ABA’s Commission on Law and Aging. “There’s no job description and no familiar models for how to be a good proxy decision maker. This pair of guides tries to fill that vacuum by describing in simple terms what it’s like to be a health care proxy, what to do while there’s still time to think about it, how to make the hard decisions, and where to get help.”

The guides stress the importance of talking—how to talk to the patient while there is still time to learn what treatment the person would want and how to talk with doctors and other medical professionals when the time comes. They also describe the kinds of issues one needs to consider when asked to make medical decisions, such as the other person’s expressed wishes, their religious or social beliefs, whether the treatment will be painful, or the success rate of the treatment.

Adapting these guides for your state would be an excellent project for bar association sections or committees on aging, in collaboration with other state groups.


To get started, contact Erica Wood at ericawood@staff.abanet.org, for a text version of the handbook and JPEG files for the photographs—it’s easier than downloading and trying to manipulate a multi-page PDF.

The general version and Maryland versions of the proxy guide are available from the ABA Commission Web site at http://new.abanet.org/aging/Pages/Online-publicationsconsumers.aspx, as well as on the Web site of the Maryland attorney general at www.oag.state.md.us (select “Health Policy”).

The guides were funded by the Morton K. and Jane Blaustein Foundation.
In 2009, the Family Law Section of the ABA changed the name of its elder law committee to the Vulnerable Adults and Special Needs Families Committee. The name change was intended to recognize that not only elders, but special needs families and vulnerable adults of all ages, often share unique issues in proceedings relating to divorce, child custody, and modifications of child support and spousal support. The Committee’s name change also was intended to attract to its membership family law attorneys who provide services to vulnerable adults and special needs individuals.

In 2010, the committee drew national attention to these issues by presenting two seminars entitled Death and Divorce in the Golden Years and Custody and the Special Needs Child at the ABA Family Law Section Spring Meeting. The committee also recognized two books published by the ABA Section of Family Law, Divorce in the Golden Years, by Leslie Ann Shaner, and The Special Needs Child and Divorce, by Margaret “Pegi” S. Price.

The committee considers issues arising from difficult circumstances presented when a death or incapacity occurs during a divorce and the need for former spouses to engage in post-divorce estate planning. This type of planning should include not only preparation of appropriate estate planning documents, like the familiar will or revocable trust, but also preparation of new durable general powers of attorney for financial matters, durable health care powers of attorney or directives, living wills or end-of-life declarations. Other urgent post-divorce planning arrangements should include changing the beneficiary designations on pension plans, 401k plans, IRA’s, bank and other financial accounts, as well as beneficiary deeds or transfer on death deeds.

Divorcing spouses frequently must address considerations relating to the continuation or dissolution of family-owned businesses that are affected by divorce, including the succession planning for such businesses.

When older individuals remarry after ending an unsuccessful long-term marriage, the new blended family presents a situation deserving of careful consideration and planning. The estate planning needs of husbands and wives may focus on providing asset protection for the parties’ children from different marriages, as well as planning for the spouses’ future needs. The parties may need a prenuptial agreement to protect funds already inherited by one of the spouses or business and property interests that they bring into the new marriage. They may prepare a post-nuptial agreement for similar reasons.

In special situations, where a spouse has serious medical or physical needs, an attorney familiar with elder law or special needs planning may help individuals determine whether cohabitation may be a better choice than marriage, which may affect needs-based assistance or benefits.

Many family law attorneys interact with clients who may suffer diminished capacity as a result of age, illness, or disability. The Committee attempts to raise awareness within the ABA Family Law Section of ethical challenges that arise when clients struggle with capacity. While estate planning and probate attorneys routinely face such issues and may be alert to capacity problems, family law attorneys may find such determinations more difficult to discern, because many divorced and post-divorce clients of all ages suffer distress and anxiety due to their circumstances.

The Vulnerable Adults and Special Needs Committee joins with the ABA Commission on Law and Aging to monitor national trends in the elder law community and to serve this population by calling attention to spousal maintenance and support needs, child support needs, property division issues, and the effect of estate planning and probate on marital estates.

Paula G. Kirby
PLC, in Scottsdale, Arizona, is licensed to practice law in Arizona and California. Her practice blends the areas of family law, probate, guardianship and conservatorship, and commercial litigation, primarily relating to family-owned businesses. Ms. Kirby serves as chair of the ABA Family Law Section’s Vulnerable Adults and Special Needs Families Committee, previously served as vice-chair of the Elder Law Committee, and is the Family Law Section’s liaison to the ABA Commission on Law and Aging. Ms. Kirby is a member of the ABA and the Arizona, California, Maricopa County, and Scottsdale bar associations.

Inside the ABA

New Committee of ABA Family Law Section Keeps Focus on Vulnerable Adults and Special Needs Families

By Paula G. Kirby
Inside the Commission

ABA Commission Interns Share Their Summer Experiences

“"My experience with the ABA Commission on Law and Aging surpassed my expectations. I had the opportunity to work with Commission Director Charlie Sabatino and conduct research about state protocols to improve end-of-life care. The project allowed me to look at state political cultures, clinical policies, and talk with medical and legal professionals. Over the summer, I attended health forums addressing elder abuse, social security, and health technology. During every outing, I had the opportunity to network with health and aging professionals in the Washington community and expand my knowledge of aging issues. The Commission staff is committed to strengthening the rights of elders and their passion for their work is evident.

—Martina Mills, William & Mary School of Law, Williamsburg, Virginia

“I had a great experience as an intern at the ABA Commission on Law and Aging. I had taken an elder law course at my school prior to the internship and was interested in getting some actual experience in the field. I was able to further my knowledge in elder law by researching and writing on the topic of guardian residential decision-making authority, under the supervision of Assistant Director Erica Wood, who has been working on guardianship issues for 30 years. Additionally, I attended hearings and briefings on Capitol Hill, as well as conferences and meetings important to the health and well-being of older Americans. Spending the summer in Washington, where law and policy is made, is an experience I would highly recommend. The expert staff at the ABA Commission on Law and Aging is friendly and were supportive of my work on this project. This experience is one I will always remember and appreciate.

—Amy Gioletti, University of Tulsa College of Law, Oklahoma

New! Special Dues Rates for Legal Aid Attorneys, Government Attorneys, Judges, and Solo Practitioners in Private Practice

Membership in the American Bar Association Comes with Professional and Personal Rewards

The American Bar Association represents the best interest of lawyers on a national level—in the courts, in legislatures, in the media, and even in the classroom. Our goal is to serve each and every lawyer, each and every day, by protecting attorney-client privilege, lobbying for protection of legal services funding, educating potential clients on the benefits of legal advocacy, working for more work/life balance, and more.

Join the ABA today and become part of the most prestigious legal organization in the country!

• Stay on top of the latest developments in the law and the legal community;
• Gain access to leadership and networking opportunities;
• Select from more than 30 specialty sections, divisions, and forums, and over 600 ABA listserves; and
• Take advantage of valuable discounts on the products and resources you need.

Join now at www.abanet.org/join or call us at (800) 285-2221
Get Connected, Stay Connected On Elderbar

Join Elderbar, the listserv that brings together public and private sector legal advocates and the aging network. Elderbar is for you if you are an:

- Elder law attorney
- Title IIB legal services provider
- Legal services developer
- Senior hotline attorney or staff
- Long-term care ombudsman
- Senior Health Insurance Benefits Program staff
- Area agency on aging staff
- State unit on aging staff
- OAA-funded elder rights advocate
- LSC, IOLTA-funded, or other non-profit or public sector legal services organization
- Law school elder law or clinical staff
- State or local bar association elder law section or committee
- Service provider in the aging network
- National law and aging advocate

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's National Legal Assistance Support Center 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 at Godfreyd@staff.abanet.org.

Health Care Decision Making

Summary of Health Care Decision Statutes Enacted in 2010 (Through July 2010)

By Martina Mills and Charles P. Sabatino

In 2010, states adopted the following legislation creating, modifying, and amending rights and procedures affecting health care decision making. The statutes affect advanced directives, default surrogate laws, Physician's Orders for Life-Sustaining Treatment (POLST), and registries.

Colorado and Louisiana adopted versions of POLST statewide in 2010, joining twelve other states authorizing versions of POLST (CA, HI, ID, MD, NY, NC, OR, TN, UT, VT, WA, WV).

Each piece of legislation is coded to indicate the potential areas of health care decision making affected by the statute. The coding system is:

- AD = Advanced Directives
- DNR = Do Not Resuscitate Orders
- DS = Default Surrogate
- POLST = Physician’s Orders for Life Sustaining Treatment, or its variants (e.g. MOLST, POST, and MOST)
- Registry = State electronic registry for Advance Directives or POLST

Health Care Decision Statutes

Colorado—DNR, AD


- Establishes the “Colorado Medical Treatment Decision Act,” which affirms a patient’s right to accept or reject medical or surgical treatment, and creates a procedure by which an adult with decisional capacity may make such decisions in advance of medical need (Co. St. § 15-18-101).
- Recognizes medical treatment declarations executed by adult patients with decisional capacity directing that life-sustaining procedures be withheld or withdrawn if, at some future time, he or she has a terminal condition or is in a persistent vegetative state, and lacks decisional capacity to accept or reject medical or surgical treatment.
- Authorizes declarations to be combined in the same document with organ and tissue donation, medical power of attorney designations, HIPPA (Health Insurance Portability and Accountability) releases, and medical directives.
• Requires two physicians to certify the validity of the declarations, and designated individuals under the “Colorado Designated Beneficiary Agreement Act” have forty-eight hours to challenge the certification in court (Co. St. §15-18-108).

Colorado—POLST, AD, REGISTRY
• Establishes the Colorado version of POLST, called “Medical Orders for Scope of Treatment” or “MOST” (Co. St. § 15-18.7-101). Includes authorization for use of a MOST form executed in Colorado, executed in another state, or signed by medical personnel who do not have admitting privileges at the hospital where the adult patient is being treated. If an adult who is known to have properly executed and signed a MOST form is transferred from one health care facility or health care provider to another, the transferring party must communicate the existence of the form to the receiving party before the transfer. Provides immunity for good faith compliance with the order. The most recently executed document takes precedence in case of a conflict between a MOST form and an adult’s advance medical directive.
• Authorizes a voluntary online MOST registry to facilitate the exchange of health information.

Georgia—DS, POLST
• Amends the definition of surrogates to include a patient’s adult (1) grandchild, (2) niece, (3) nephew, (4) aunt, (5) uncle, or (6) friend who has exhibited special care and concern for the patient and is generally familiar with the patient’s health care views and desires.
• Authorizes the Department of Community Health to develop and make available a voluntary POLST form to be executed by a patient or surrogate and a physician.

Illinois—DS
• Authorizes any surrogate, as defined by the statute, to have the authority to make decisions for the patient until removed by the patient who no longer lacks decisional capacity, appointment of a guardian of the person, or the patient’s death.

Illinois—AD
• Amends the witnessing requirement for an advanced directive to include one witness who can attest the individual or surrogate (1) had the opportunity to read the form, and (2) signed or acknowledged the form in the witness’s presence.

Iowa—POLST
• Extends the POLST pilot program enacted in 2008 until June 30, 2012, to prepare for statewide implementation. The pilot project will include a county with a population between one hundred seventy-five thousand and two hundred twenty-five thousand and one contiguous rural county.

Louisiana—POLST
2010 La. Legis Serv. Ch. 5 (H.B. 1485), approved July 2, 2010, effective August 15, 2010, establishes the Louisiana version of POLST, called “Louisiana Physician Order for Scope of Treatment” or LaPOST. The legislation:
• Provides detailed specifications for the contents and format of the LaPOST form and procedure.
• Requires a periodic review of the LaPOST form by the patient and his or her physician.
• Requires physician’s and patient’s signatures (or that of the patient’s health care representative).
• Provides immunity to any medical provider, physician, or person acting under their direction from civil and criminal prosecution and questions of professional conduct as a result of complying with a LaPOST form.
• Certified EMS technicians and first responders must make a reasonable effort to detect the presence of a LaPOST or if such a form is found, the according with the LaPOST form.

Continued on page 122
Health Care Decision Statutes Enacted in 2010

Continued from page 121

ence of an executed LaPOST form, but physicians and health care providers have no duty to make a search of whether the patient has an executed form.

- Any attending physician who refuses to honor LaPOST must make “a reasonable effort” to transfer the patient to another physician.

Maine—AD

2010 Me. Legis. Serv. Ch. 651 (S.P. 495) (L.D. 1360) (West), approved and effective April 14, 2010, amends the state’s law governing psychiatric admissions and commitments.

- One provision related to advance directives requires any law enforcement officer who knows that a person has an advance health care directive authorizing mental health treatment and “probable cause” (previously “reasonable grounds”) to believe the person lacks capacity, to immediately deliver the person for examination by a medical practitioner to determine the individual’s capacity and the existence of conditions specified in the advance health care directive for the directive to be effective.

- Amends the definition for medical practitioner to include a licensed physician, registered physician assistant, certified psychiatric clinical nurse specialist, certified nurse practitioner, or licensed clinical psychologist.

Minnesota—DS


- Establishes a decision-making process in general hospitals and nursing homes empowering surrogates to make health care decisions for patients who lack the capacity to make their own health care decisions and who have not otherwise appointed an agent or made his or her treatment wishes known.

- Clarifies the court’s authority to declare a health care directive unenforceable if it finds by clear and convincing evidence that the health care directive was executed under coercion or fraudulent inducement, or if it finds that the health care directive is not legally sufficient under the advance directive statute.

- Clarifies that a health care agent appointed by the ward to control final disposition of the ward’s remains, or a health care agent authorized to make organ or tissue donations, may make health care decisions for the purpose of preparing the ward’s body for organ or tissue donation or final disposition of the ward’s remains.

New York—DS

2010 Sess. Law Serv. Ch. 254 (H.F. 3128) (West), approved April 15, 2010, effective August 1, 2010, amends several details in the state’s guardianship/conservatorship statute, including certain provisions regarding advance directives. The legislation:

- Clarifies the court’s authority to declare a health care directive unenforceable if it finds by clear and convincing evidence that the health care directive was executed under coercion or fraudulent inducement, or if it finds that the health care directive is not legally sufficient under the advance directive statute.

- Establishes a procedure for making health care decisions for adult patients who have lost decision-making capacity and have no available family member or friend to act as a surrogate. The section authorizes the attending physician to decide about routine medical treatment for patients without surrogates.

- For decisions about major medical treatment, the attending physician must consult with hospital staff involved with the patient’s care and at least one other physician, selected by the hospital, must concur in the appropriateness of the decision. There are special requirements for withholding or withdrawing life-sustaining treatment.
• Provides for the establishment of an interdisciplinary ethics review committee (NY ST § 2994-m).

Vermont—AD, Palliative Care
  • Establishes state principles for health care reform and a commission on health care reform, and amends the state’s “Blueprint for Health.” Among changes to the latter is a provision for education for patients on health care decision-making, including education related to advance directives, palliative care, and hospice care to improve chronic care management that encourages the use of the medical home and the community health teams.

Virginia—Registry
  • Removes the notarization requirement for documents filed in the Advance Healthcare Directive Registry.

Virginia—AD, DNR
  • Amends the capacity determination process to require that a second physician or licensed clinical psychologist (now referred to as the “capacity reviewer”) who makes the second capacity evaluation be qualified by training or experience to assess capacity. §54.1-2982 and -2983.2B.
  • Establishes a definition and requirement for health facilities to have “patient care consulting committees.” §54.1-2982.
  • Provides immunity from criminal prosecution and civil liability for any individual serving on a facility’s patient care consulting committee and for a physician rendering a determination or affirmation in cases in which there is no patient care consulting committee for any act or omission done or made in good faith in the performance of such functions (§ 54.1-2988).
  • Adds close friend to the end of the priority list of default decision makers in the absence of an appointed agent. However, this surrogate is not permitted to make decisions about withholding or withdrawing life-prolonging procedures. In addition, a patient care consulting committee or two qualified physicians must make the determination that the person meets the criteria for close friend.

• Revises the provisions permitting agents or other surrogates to make health care decisions over the patient’s protest (use of so called “Ulysses clauses”).
  1. An appointed agent may be given such power if: (1) the advance directive explicitly authorizes the agent to make the health decision at issue, even over the patient’s protest; and (2) the attending physician or licensed clinical psychologist attested in writing at the time the advance directive was made that the patient was capable of making an informed decision and understood the consequences of the provision; and (3) the decision does not involve withholding or withdrawing life-prolonging procedures; and (4) the attending physician determines that the health care to be provided is medically appropriate and otherwise permitted by law.
  2. If the patient does not have an appointed agent, a default surrogate may make such decisions if (3) and (4) above are met and also: (1) the decision does not involve admission to a psychiatric facility or treatment or care that is governed by state mental health law; and (2) the decision is based, to the extent known, on the patient’s religious beliefs and basic values and on any preferences previously expressed, or if they are unknown, in the patient’s best interest.

• Authorizes licensed health care practitioners at any continuing care retirement community registered with the state corporation commission to follow durable do not resuscitate orders.

States Adopting the Revised Uniform Anatomical Gifts Act in 2010

• 2010 Kentucky Laws Ch. 161 (SB 4) (West), approved April 26, 2010.
• 2010 Nebraska Session Law Serv. L.B. 1036 (West), approved April 1, 2010.

Continued on page 124
Advanced Topics in Representing Veterans With Veterans' Benefits Claims

Three Free Webinars

The ABA Commission on Law and Aging is pleased to announce three no-charge MCLE webinars on advanced topics in representing veterans with VA benefits claims.

These programs, developed as part of the ABA’s Veterans Advocacy Pro Bono Project, offer a beyond-the-basics examination of key topics in obtaining veterans’ benefits. Each program runs approximately 90 minutes and continuing legal education credit will be applied for in all available jurisdictions. In addition to being eligible for state bar license renewal, these programs will count toward the Veterans Administration initial attorney accreditation requirement (for more information, click here.)

The three webinars are:

I. Understanding Discharge Review—The First Step in Helping a Veteran with a ‘Bad’ Discharge

- Presenter: James S. Richardson Sr., attorney, former senior attorney-advisor for the U.S. Court of Appeals for the Armed Forces, past president of the Federal Bar Association (2007-2008).
- Date: October 27, 2010, 1:00 p.m. - 2:30 p.m. (EST)

II. Establishing Service Connection on VA Benefits Claims

- Presenter: Michael Horan, deputy general counsel, Paralyzed Veterans of America
- Date: November 17, 2010, 2:00 p.m. - 3:30 p.m. (EST)

III. Appealing Disability Ratings

- Presenter: TBD
- Date: January/TBD

Please check the ABA Commission on Law and Aging Web page at www.abanet.org/aging and the Elderbar listserv for program and registration information.

These Webinars are part of the ABA Veterans Advocacy Pro Bono Project produced by the ABA Commission on Law and Aging and made possible with funding from the ABA Enterprise fund. The programs are co-sponsored by the ABA Section of Administrative Law and Regulatory Practice; ABA Standing Committee on Bar Activities and Services; ABA Commission on Homelessness and Poverty; ABA Standing Committee on Pro and Public Service; and the ABA Senior Lawyers Division.

—David Godfrey, senior attorney, ABA Commission on Law and Aging
Recommended Reading

Residence Options for Older and Disabled Clients

By Lawrence A. Frolik
ABA Publishing, 424 pp. $89.95

Review by David Godfrey

In Residence Options for Older and Disabled Clients, Lawrence A. Frolick delivers a text that is as informative as it is a pleasure to read.

Residence Options is a comprehensive survey of housing options—ranging from aging-in-place to nursing home care—with a degree of depth necessary to advise clients on planning and decisions about where to live.

The book begins with a discussion of age and disability-related issues that impact housing choices. It continues with a review of age-restricted housing and aging in place. Home ownership options are discussed, including a detailed chapter on condominiums and cooperatives, planned communities, manufactured housing, and mobile homes. The book also covers specialized housing, such as continuing care retirement communities, congregate and assisted living, group homes, foster care homes, personal care homes, home health care options, nursing homes and hospice. Each section describes the characteristics of the housing option, underlying laws applicable, and options for payment. The advantages and disadvantages of each option are explored with significant explanations of challenges. Eight of the twelve chapters include checklists or planning guides, reproduced as text documents and PDFs on an accompanying CD, making them easy-to-use, accessible practice tools.

How and where adults live is a basic and personal choice, and lawyers are frequently called on for advice. Some choices, such as signing a CCRC contract, setting up a reverse mortgage, or moving into age-restricted housing, involve complex legal concepts that many may need legal assistance to understand. While some of the topics could easily expand into their own book, this volume is an excellent resource for any attorney who regularly works with older or disabled clients and is not an expert in housing law.

The book is a trove of valuable information, presented in an accessible format. I highly recommend this book both for attorneys or other professionals that counsel older or disabled clients.


By AARP Legal Counsel for the Elderly, 17 pp.

Review by Jamie Philpotts

AARP’s Legal Counsel for the Elderly (LCE) recently published a guide for legal advocates helping homebound elderly. Written by LCE attorney Vanessa A. Buchko, the manual is based on the work of Project HELP, an initiative launched in 2007 by AARP’s Legal Counsel for the Elderly to provide free civil legal services to homebound (or facility bound) low-income older adults living in Washington, D.C.

Project HELP attorneys, with the support of other staff and volunteers, provide civil legal services in the areas of estate planning, landlord-tenant, guardianship, public benefits, and predatory lending. The services are provided without charge. And because the project’s attorneys make home visits, they are often able to identify other evident legal needs and help their clients obtain adequate income, housing, health care, and other social and supportive services. Since its inception, the project has served more than 270 homebound elderly clients.

The Home Visitor Manual provides background on LCE’s Project HELP and details how a legal advocacy organization can create a home-visit program. It describes important first-steps, such as ways to conduct outreach to increase community awareness and funding. The manual also describes LCE’s comprehensive intake process for the project, which helps staff determine if a client is legitimately homebound.

Important logistical considerations for attorneys visiting clients in their homes are addressed. This includes safety measures to be taken when visiting private homes and travelling to unfamiliar neighborhoods. The manual underscores also the importance of an attorney’s sensitivity to hygiene when visiting multiple private homes and the effects that germs can have on their elderly, often frail, clients. It also advises attorneys on precautions that will help protect their own health.

The manual features helpful how-to’s on setting up a mobile office and scheduling home visits; ethical and legal issues to consider when representing this unique client population; and the invaluable roles of volunteers in a home visitor project.

The Home Visitor Manual includes a lengthy addendum, which features previously published articles on the LCE’s Project Help, slides and copies of Project HELP outreach materials, examples of documents used by advocates visiting homebound clients, and more. To obtain a print copy of the manual, contact author Vanessa Buchko at: vbuchko@aarp.org. The manual is also available online, at: http://lceindec.files.wordpress.com/2010/07/lce-project-help-manual-an-advocates-guide-for-helping-homebound-elderly-2010.pdf.
Continuing Legal Education

Elder Law 2010: What Every Attorney Representing Elderly Clients Needs to Know

Date: Wednesday, September 29, 2010
Time (according to zone): 11:00 a.m. - 12:30 p.m. (EST); 10:00 a.m. - 11:30 a.m. (CST);
9:00 a.m. - 10:30 a.m. (MST); 8:00 a.m. - 9:30 a.m. (PST)
Format: Live Webcast from the ABA Smart Soloing School

Brought to you by the American Bar Association

Join our expert faculty as we discuss hot topics in elder law, including: ethical representation of elder clients and their families; understanding Medicare and key changes under the new healthcare reform act; and representing elders in personal injury and malpractice cases.

Presenters are:

David Godfrey, Senior Staff Attorney, ABA Commission on Law and Aging, Washington, DC
Beth Janicek, Attorney, Law Offices of Beth S. Janicek, San Antonio, TX
Alfred J. Chiplin, Senior Policy and Managing Attorney, Center for Medicare Advocacy, Inc., Washington DC

CLE Credit:

1.5 hours of CLE credit in 60-minute states have been requested. 1.8 hours of CLE credit in 50-minute states have been requested. Please be aware that each jurisdiction has its own rules and regulations, including the definition of CLE. Check with your MCLE jurisdiction for confirmation of each program's approval.
NY-licensed attorneys: This non-transitional CLE program has been approved for experienced NY-licensed attorneys in accordance with the requirements of the New York State CLE Board for 1.5 total NY MCLE credits.
States currently not accrediting ABA Distance Learning Programs: DE, IN, KS, OH, PA.

Smart Soloing School (September 28-30, 2010, Virtual Event featuring 12 CLE Webcasts)

Stay ahead of the class with this 3-day virtual program designed to help you build skills for better client representation. This virtual 12-program CLE series provides insight on fundamental and growing practice areas for solos, identifies trends, and explores common ethical issues and how to overcome them. Attendees will also be able to network online and attend a virtual trade show.

For more information on the ABA Smart Soloing School go to: http://www.abanet.org/cle/smartsoloing/
Health Care Decision Making

Links to State-Specific Advance Directive Forms (As of July 2010)

By Amy Gioletti

The links below take you to free downloadable forms and information from state bar associations and other reputable state groups. While these Web addresses are periodically updated, we cannot guarantee all links will work because Web addresses change frequently. If a link fails, try copying just the core address into your browser to reach a main page and search for advance directive forms from there.

<table>
<thead>
<tr>
<th>State</th>
<th>Link to Form and Instructions</th>
<th>Supplemental information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td><a href="http://www.alaha.org/resources.aspx?id=33">http://www.alaha.org/resources.aspx?id=33</a></td>
<td></td>
</tr>
<tr>
<td>Alaska</td>
<td><a href="http://www.hss.state.ak.us/dph/director/living_will">http://www.hss.state.ak.us/dph/director/living_will</a></td>
<td></td>
</tr>
<tr>
<td>Arizona</td>
<td><a href="http://www.azag.gov/life_care/FAQ.html#2">http://www.azag.gov/life_care/FAQ.html#2</a></td>
<td></td>
</tr>
<tr>
<td>California</td>
<td><a href="http://www.ag.ca.gov/consumers/general/adv_hc_dir.htm">http://www.ag.ca.gov/consumers/general/adv_hc_dir.htm</a></td>
<td></td>
</tr>
<tr>
<td>Delaware</td>
<td><a href="http://dhss.delaware.gov/dhss/dsaapd/advance.html">http://dhss.delaware.gov/dhss/dsaapd/advance.html</a></td>
<td></td>
</tr>
<tr>
<td>District of Columbia</td>
<td><a href="http://www.whcenter.org/body.cfm?id=555685#">http://www.whcenter.org/body.cfm?id=555685#</a></td>
<td></td>
</tr>
<tr>
<td>Hawaii</td>
<td><a href="http://hawaii.gov/health/disability-services/neurotrauma/key-services-health.html">http://hawaii.gov/health/disability-services/neurotrauma/key-services-health.html</a></td>
<td></td>
</tr>
<tr>
<td>Idaho</td>
<td><a href="http://www.abetterwaycoalition.org/index.htm">http://www.abetterwaycoalition.org/index.htm</a></td>
<td></td>
</tr>
</tbody>
</table>

Continued on page 128
<table>
<thead>
<tr>
<th>State</th>
<th>Link to Form and Instructions</th>
<th>Supplemental information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Louisiana</td>
<td><a href="http://www.lmhpco.org/caregivers/">http://www.lmhpco.org/caregivers/</a></td>
<td></td>
</tr>
<tr>
<td>Maine</td>
<td><a href="http://www.themha.org">http://www.themha.org</a></td>
<td></td>
</tr>
<tr>
<td>Maryland</td>
<td><a href="http://www.oag.state.md.us/healthpol/AdvanceDirectives.htm">http://www.oag.state.md.us/healthpol/AdvanceDirectives.htm</a></td>
<td></td>
</tr>
<tr>
<td>Michigan</td>
<td><a href="http://www.michbar.org/elderlaw/adpamphlet.cfm#c">http://www.michbar.org/elderlaw/adpamphlet.cfm#c</a></td>
<td></td>
</tr>
<tr>
<td>Minnesota</td>
<td><a href="http://www.mnhealthcaredecisions.info">http://www.mnhealthcaredecisions.info</a></td>
<td></td>
</tr>
<tr>
<td>Mississippi</td>
<td><a href="http://www.mshealthcaredecisionsday.com">http://www.mshealthcaredecisionsday.com</a></td>
<td></td>
</tr>
<tr>
<td>Nebraska</td>
<td><a href="http://www.nehospice.org/displaycommon.cfm?an=5">http://www.nehospice.org/displaycommon.cfm?an=5</a></td>
<td></td>
</tr>
<tr>
<td>Nevada</td>
<td><a href="http://www.nlivingwill.com">http://www.nlivingwill.com</a></td>
<td></td>
</tr>
<tr>
<td>New Mexico</td>
<td><a href="http://www.nmaging.state.nm.us/AHCD.htm">http://www.nmaging.state.nm.us/AHCD.htm</a></td>
<td></td>
</tr>
<tr>
<td>State</td>
<td>Link to Form and Instructions</td>
<td>Supplemental information</td>
</tr>
<tr>
<td>-----------------------</td>
<td>-------------------------------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>North Dakota</td>
<td><a href="http://www.altru.org/body.cfm?id=267#Links">http://www.altru.org/body.cfm?id=267#Links</a></td>
<td></td>
</tr>
<tr>
<td>Pennsylvania</td>
<td><a href="http://www.haponline.org/quality/eol/advance">http://www.haponline.org/quality/eol/advance</a></td>
<td></td>
</tr>
<tr>
<td>South Carolina</td>
<td><a href="http://www.aging.sc.gov/seniors/AdvanceDirectives">http://www.aging.sc.gov/seniors/AdvanceDirectives</a></td>
<td></td>
</tr>
<tr>
<td>Tennessee</td>
<td><a href="http://health.state.tn.us/AdvanceDirectives/index.htm">http://health.state.tn.us/AdvanceDirectives/index.htm</a></td>
<td></td>
</tr>
<tr>
<td>Utah</td>
<td><a href="http://aging.utah.edu/utah_coa/directives/index.html">http://aging.utah.edu/utah_coa/directives/index.html</a></td>
<td></td>
</tr>
<tr>
<td>Virginia</td>
<td><a href="http://www.vsb.org/site/public/healthcare-decisions-day">http://www.vsb.org/site/public/healthcare-decisions-day</a></td>
<td></td>
</tr>
<tr>
<td>West Virginia</td>
<td><a href="http://www.hsc.wvu.edu/chel/wvi/forms.html">http://www.hsc.wvu.edu/chel/wvi/forms.html</a></td>
<td></td>
</tr>
</tbody>
</table>
Health Care Benefits

New Web Site Helps Consumers Choose The Best Health Insurance Options

By Leslie Fried, Senior Attorney, ABA Commission on Law and Aging

The U.S. Department of Health and Human Services launched a new, easy-to-navigate online tool that will help all consumers obtain information and resources about health care and health insurance in their community.

The new Web site, www.healthcare.gov provides a broad array of information organized into six distinct groups, including: families with children, individuals, individuals with disabilities, seniors, young adults, and employers.

A wealth of information is presented on the Web site that educates consumers about:

• Public and private insurance options in every community,
• Quality ratings for local health care providers (e.g., hospitals),
• Prevention services, and
• Health care reform law (Affordable Care Act).

Finding the Best Health Insurance for You

If you are looking for insurance options in your state—including the new Pre-Existing Condition Insurance Plans—this Web site is a simple interactive tool.

• Step 1: After going to the Web site, click on the “Find Insurance Options” button.
• Step 2: Answer a few simple questions about your health and current insurance (if any)—this is anonymous; you do not need to provide your name or address.
• Step 3: Review the variety of insurance options available in your state or local community.

This comprehensive “one stop” resource for health insurance and health coverage will be updated frequently.

It will be helpful to individuals, care partners, and organizations that provide assistance to constituents as they consider the various options available in their community.

In Memory of Robert Butler

On Sunday, July 4, 2010, Dr. Robert N. Butler passed away in New York City. He was 83 years old.

Dr. Butler was one of the first Commissioners of the ABA Commission on Law on Aging (then named the Commission on Legal Problems of the Elderly).

He was a Pulitzer Prize-winning author, gerontologist, physician, and psychiatrist, who also served as founding director of the National Institute on Aging, helped to found the American Association for Geriatric Psychiatry, the Alzheimer’s Association, and the International Longevity Center. In 1995, he was named chairman of the White House Conference on Aging.

In 2008, Dr. Butler delivered the keynote address at the ABA Commission co-sponsored National Aging and Law Conference.

Dr. Butler will be remembered for his tireless advocacy for the health, well-being, and legal rights of the elderly and as a champion for all-around healthy aging.
Legal Services Delivery

Administration on Aging Awards
Grants for Model Approaches Statewide Legal Assistance Systems . . .

By Shoshanna Ehrlich

On July 8, 2010, HHS Assistant Secretary for Aging Kathy Greenlee announced an award of $700,000 to seven states to help at-risk older Americans have better access to legal services.

The awards of $100,000 each were made to the state unit on aging or a legal service provider in each state. The grantees will work to integrate senior legal helplines, pro bono attorneys, law school clinics, Title III-B providers, and others into a coordinated statewide legal services program. Through the model approaches grants, the AoA aims to help states integrate their helplines and other low-cost legal assistance mechanisms towards a permanent and sustainable system of legal services delivery.

The awardees for this year are:

- Alaska Legal Services Corporation in partnership with the Division of Senior and Disability Services.
- Division of Services for the Aging and Adults with Physical Disabilities (Dept. of HHS) in partnership with Delaware Senior Legal Helpline.
- AARP Legal Counsel for the Elderly, Washington, D.C., which operates the Legal Hotline for the Elderly and also houses the legal assistance developer.
- Atlanta, Georgia, Legal Aid Society, which operates the Georgia Senior Legal Hotlines, in partnership with the Georgia Division of Aging Services, Dept. of HHS.
- Legal Advocacy and Resource Center in partnership with the Massachusetts Executive Office of Elder Affairs.
- Texas Legal Services Center, which operates the Legal Hotline for Texans, in partnership with the Texas Department of Aging and Disability Services.
- West Virginia Senior Legal Aid in partnership with the West Virginia Bureau of Senior Services.

And for Pension Rights Projects

On July 8, Assistant Secretary Greenlee announced more than $1.6 million in grants to help older Americans understand and exercise their pension rights.

Awards of $200,000 each have been made to six regional pension counseling projects, covering 27 states, with proposed expansion to include two more states (Indiana and New Mexico) over the three-year grant period.

The following programs are recipients of the grants:

- Elder Law of Michigan, Inc., operates the Mid-America Pension Rights Project, which serves Michigan, Ohio, Pennsylvania, Kentucky, Tennessee, and will expand to serve Indiana with this new award.
- Legal Services of Northern California operates the Western States Pension Assistance Project, which serves California, Nevada, Arizona, and Hawaii.
- Metropolitan Area Agency on Aging, Inc., of Minneapolis, MN, operates the Upper Midwest Pension Rights Project, which serves Minnesota, Wisconsin, Iowa, North Dakota, and South Dakota.
- South Brooklyn Legal Services, N.Y., operates the Mid-Atlantic Pension Counseling Project, which serves New York and New Jersey.
- Texas Legal Services Center, Inc., operates the South Central Pension Rights Project, which serves Texas, Arkansas, Louisiana, Missouri, Oklahoma, and will expand into New Mexico with this new grant.
- University of Massachusetts Boston operates the New England Pension Assistance Project, which serves Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island, and Vermont.

The award also funds the National Pension Assistance Resource Center, which provides training and technical support to the projects, as well as to state and area agencies on aging, aging and disability resource centers, and legal services providers.

For more information, visit www.pensionrights.org.

This article previously appeared in the June issue of the Legal Hotline Connection, a newsletter of the Center for Elder Rights Advocacy.

BIFOCAL Jul.-Aug. 2010 131 Vol. 31, No. 6
The participants of the National Aging and Law Conference (NALC) will honor colleagues who have passed away in the last year through a special section in the conference book. If you would like to have one of your colleagues honored, please send his or her name and a short bio (limit of 250 words) highlighting advocacy work or professional accomplishments to: sbuckingham@aarp.org. **Deadline for submission is October 1, 2010.**

Your gift to the ABA Commission on Law and Aging will support the programs and research that help protect the rights of elders, ensure their access to the legal system, and educate lawyers, policy makers, professionals, and the public about the legal issues affecting older people.

The ABA Commission on Law and Aging is grateful for every donation it receives, including memorial donations, tribute donations, and contributions from members and friends.

As a 501(c)(3) non-profit organization, all donations are tax deductible. Ways you can help:

- **Write a check** to the ABA Fund for Justice and Education and designate the “Commission on Law and Aging” as the donee. Mail to: American Bar Association Commission on Law and Aging 740 15th St., N.W. Washington, DC 20005

- **Donate online** at the ABA’s Fund for Justice and Education Online Contribution Form and designate the “Commission on Law and Aging” for the gift designation. Go to: https://www.abanet.org/fje/donate/home.html

- Phone the Commission at (202) 662-8688 to discuss a specific gift of support.