Oregon State Bar **Elder Law Newsletter**

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HB 2349 addresses fiduciary fee disclosure

By Stuart B. Allen, JD, CTFA

There has long been a cottage industry of individuals who have served as professional fiduciaries and trustees as part of their business. These individuals have provided a much-needed service in accepting small and/or difficult accounts that wouldn't typically be managed by a bank trust department or a trust company.

Previous rules adopted by the legislature regarding private fiduciaries led to cross referencing with the Oregon Revised Statutes (ORS), which authorized and defined private fiduciaries, and the Oregon Administrative Rules (OAR), which stated when they may serve as trustee. I helped to author House Bill 2349 to address some of the ambiguities. It's a disclosure bill that provides additional information to courts when a court is petitioned to appoint a "professional fiduciary" for a protected person. The bill passed unanimously in both the House and the Senate, was signed by Governor Brown on June 11, 2015, and goes into effect January 1, 2016.

Specifically, HB 2349 requires a professional fiduciary to include in the petition that is submitted to the court the following additional information:

- *The investment credentials and licensing (under ORS chapter 59 – dealing with Oregon securities law) of the individual who will be responsible for handling the affairs of the protected person*

  If a security-licensed person begins working as a private fiduciary, past licensing violations may be uncovered.
- *Disclosure of whether there is any revenue sharing arrangement between the fiduciary and any other person*

  This provision addresses potential conflicts of interest.
- *The method that will be used to establish the fees paid to the fiduciary, such as commissions or monthly charges*

  If the professional fiduciary is using a non-fiduciary to invest the assets, appropriate disclosure and monitoring are paramount.
- *A requirement that the professional fiduciary filing the petition with the court include an acknowledgment that the fiduciary will make all investments of the protected person's assets in accordance with the "prudent investor rule" (as set out in ORS 130.750 – 130.775)*

  A simple declaration in the petition or an Investment Policy Statement (IPS) should satisfy.
- *A requirement that if the conservator is a professional fiduciary, the accounting of assets (which is filed with the court periodically) must include the total compensation that investment advisors or brokers other than the professional fiduciary charged or received*

  When this bill was vetted with Oregon judges, they made it very clear they want a simple total number in the annual accounting that may be backed up by additional documentation.

  Among the potential fees received by a broker or investment manager are:
  - Investment management fees
  - Commissions on equity and mutual fund trades
  - Spreads on individual bonds

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Fiduciary fee disclosure

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Stuart B. Allen is President & CEO of Allen Trust Company and Allen Capital Management. He earned his JD from Texas Wesleyan University and joined the Oregon State Bar in 1996. He is a Certified Trust and Financial Advisor. He recently received the inaugural Distinguished Alumnus Award for the Hermiston School District and was delighted to give the commencement speech for the Class of 2015.

- 12b-1 fees (sales and marketing fees paid from the fund manager back to the broker)
- Soft dollars (compensation when an equity trade is placed that inures back to the trading broker)

In addition to assessing prudent investment management, it also require assets be invested when appropriate. If a beneficiary or protected person has a long time horizon, assets need to be invested accordingly. If it's clear the person has nominal assets or a short time horizon, it may justify keeping a large cash position. An appropriately crafted IPS can address both scenarios.

How does this new bill benefit protected persons and their beneficiaries?

HB2349 creates more accurate fee disclosure, so it is easier to compare fees and abilities of corporate trustees and private fiduciaries. Trust companies have stated fee schedules that the court is able to review and approve prior to appointment. These are generally based upon the market value of the protected person's assets, and therefore the fees are usually predictable. Most private fiduciaries charge by the hour, so their fees are generally unpredictable. Perhaps future legislation can address that issue.

In addition, trust companies are authorized to perform investment management, whereas private fiduciaries may need to use an outside bank and/or broker to write checks and invest the assets. Previously, private fiduciaries were not required to disclose investment management or brokerage fees to the courts, or those fees were simply unknown by other interested persons.

Practice tip

Perhaps the greatest value in this bill is that it can serve as a tool private fiduciaries can use to know and better negotiate fees to help clients with finite assets. The private fiduciary can send an email or letter to his or her contact at the investment firm, asking for a total fee for the reporting period. If a reply is vague or unsatisfactory, the fiduciary may be required to change institutions. If the total fee is not clearly disclosed or reported succinctly, the annual report may be rejected.

In conclusion

House Bill 2349 will assist our courts in making fully informed decisions regarding the qualifications and costs of professional fiduciaries who seek appointment to represent protected persons. It also gives the private fiduciary a tool to assist in appropriating cost management when helping vulnerable Oregonians. ■

Same-sex marriage decision affects Social Security & SSI benefits

On June 26, 2015, the Supreme Court issued a decision in *Obergefell v. Hodges*, which held that same-sex couples have a constitutional right to marry in all states. As a result, more same-sex couples will be recognized as married for purposes of determining entitlement to Social Security benefits or eligibility for Supplemental Security Income (SSI) payments.

Since a previous Supreme Court decision in 2013, the Social Security Administration (SSA) has been able to recognize some same-sex marriages and non-marital legal same-sex relationships in determination of entitlement to or eligibility for benefits. SSA also considers same-sex marriage when processing claims for SSI. Marriage may affect SSI eligibility or payment amount.

SSA is working closely with the Department of Justice to develop and implement policy and processing instructions to implement the June 26, 2015, Supreme Court decision. In the meantime, SSA encourages a spouse, divorced spouse, or surviving spouse of a same-sex marriage or non-marital legal same-sex relationship to apply right away for benefits. Applying now will preserve one's filing date, which will protect against the loss of any potential benefits.

For the most up-to-date information on how same-sex marriage may affect a claim, check the web page at **www.socialsecurity.gov/people/same-sexcouples** ■

HB 2362: Attorney fees in protective proceedings

By Bob Joondeph, Executive Director, Disabiity Rights Oregon

Attorney Bob Joondeph has been with Disability Rights Oregon (previously known as Oregon Advocacy Center) since 1986. He earned his JD from Case Western Reserve University School of Law.

In 2013, the legislature enacted HB 2570, which lists factors for a court to consider when determining whether and how to award attorney fees in protective proceedings. The resulting statute, ORS 125.098, sets out ten factors for a court to consider when determining whether to award fees, and an additional six factors (for a total of 16) to consider when determining the amount of fees to award. It also states that none of the 16 factors "shall be controlling in the court's determination regarding attorney fees." HB 2362 amends that law.

HB 2362 elevates one factor, "the benefit to the person subject to the protective proceeding by the party's actions in the proceeding," to the most important consideration for the court to consider. ORS 125.098 is amended to read:

> (2) A court shall consider the following factors in determining whether to award attorney fees under ORS 125.095:
>
> (a) The benefit to the person subject to the protective proceeding by the party's actions in the proceeding, **which factor shall be given the greatest weight in the court's consideration under this section**.

Disability Rights Oregon (DRO) promoted this change as a reminder to courts and involved parties that protective proceedings exist to protect vulnerable individuals. DRO testified that when disputes arise in protective proceedings, fees are often awarded out of the assets of the protected person.

Many interests can be represented in these proceedings—including the protected person, the fiduciary, family members, and other interested persons. Sometimes the dispute can involve a challenge to the actions, or failures to act, of the fiduciary, whether a fiduciary should be replaced, or whether the protected person continues to need a fiduciary.

If a protected person is dissatisfied with the performance or his or her fiduciary, or believes he or she no longer needs the fiduciary's assistance, the costs of bringing this concern to a court can be prohibitive due to the need to pay fees to all affected parties. While fees may be appropriate in such a case, DRO contended that any award should fully consider their effect upon the well-being of the protected person.

HB 2362 was signed into law on May 21, 2015 and is effective January 1, 2016. ■

HB 2368 clarifies advance directive issue

By Anastasia Yu Meisner, Attorney at Law

Anastasia Yu Meisner is an attorney with Guyer Meisner, Attorneys in Lake Oswego. She has been honored with the OSB President's Affirmative Action Award. She was a contributing author to the ABA publication "Dear Sisters, Dear Daughter: Strategies for Success from Multicultural Women Attorneys" and the OSB publication "The Ethical Oregon Lawyer."

House Bill 2368 was sponsored by Disability Rights Oregon (DRO) and signed by Governor Kate Brown on May 18, 2015, and goes into effect January 1, 2016. It clarifies how to address inconsistent instructions between an advance directive and a declaration for mental health treatment.

The Oregon advance directive was originally created in 1989 to appoint health care decision-maker proxies and direct end-of-life decisions. In 1993, the declaration for mental health treatment was created. The declaration for mental health treatment allows advanced decision making for psychiatric care. It was designed to be used by individuals who experience chronic mental health disorders.

In 2011, Oregon's advance directive law was changed to no longer prohibit admission to or retention in a health care facility for care or treatment of a mental illness. In other words, a health care representative may, if the principal is incapacitated, pursue mental health care treatment such as in-patient psychiatric services. However, ORS 127.540 provides that it is still prohibited for an advance directive to be used to authorize convulsive and psychosurgery treatment.

When there are conflicting instructions as to both types of directives, statutory law has not provided guidance as to how the conflicts should be resolved.

HB 2368 provides clarity. If a principal has both a valid health care instruction or health care power of attorney and a declaration for mental health treatment, and if the directives are inconsistent, then the declaration for mental health treatment will govern to the extent of the inconsistencies.

During legislative testimony Representative Mitch Greenlick, Chair of the House Committee on Health Care, asked whether DRO considered resolving the conflict in favor of the most recently executed document.

Bob Joondeph, Executive Director of DRO, said his organization did consider favoring the "last in time" document. However, the DRO chose to favor the declaration for mental health treatment, because the advance directive almost completely focuses on end-of-life decisions. Also, the document does not mention mental health treatment, whereas the declaration is specific to mental health treatment. In addition, advance directives can be indefinite, but declarations expire after three years. ■

Thanks to Bob Joondeph for his contribution to this article.

Digital assets continue to pose challenge for estate administrators

By Victoria Blachly, Attorney at Law

Victoria Blachly is a partner at Samuels Yoelin Kantor, LLP. Her practice focuses on fiduciary litigation for individual trustees, corporate trustees, beneficiaries, and personal representatives, including trust and estate litigation, will contests, trust disputes, undue influence, capacity cases, claims of fiduciary breach, financial elder abuse cases, petitioning for court instructions, and contested guardianship and conservatorship cases. She is engaged in state and national lobbying for updating laws for fiduciaries, and she writes for Samuels Yoelin Kantor's wealthlawblog.com.

Most people now own a great variety of digital assets, including bank or investment account statements, photographs, documents, social media accounts, websites, and more. What happens to those accounts or assets when the owner dies or becomes incapacitated? Does the personal representative have the authority or ability to access those accounts and try to put the pieces of a financial picture back together? Can those photographs be copied and delivered to the grieving family left behind? Should certain accounts or information be deleted, particularly if a protected person is being targeted online or identity theft is an issue? Even if an authorized user has the password to access an online account, is that a fraudulent cybercrime by misrepresenting to the end user who he is? Access to digital assets is often limited by custodians through restrictive terms-of-service agreements. (Yahoo's agreement, for example, says it can hit the "delete" button when you die and erase everything.) All of these questions lead to one inescapable issue: the Internet is outrunning the law.

To address this important issue, the Oregon State Bar sponsored Senate Bill 369 under which the Uniform Fiduciary Access to Digital Assets (UFADAA) would become law in Oregon. UFADAA updates state fiduciary law for the Internet age. When a person dies or loses the capacity to manage his or her affairs, a fiduciary receives legal authority to manage or distribute the person's property as appropriate. UFADAA ensures that fiduciaries have the access they need to carry out their duties in accordance with the account holder's estate plan, if there is one, otherwise in the account holder's best interests.

UFADAA provides a predictable manner where a fiduciary, consistent with well-established fiduciary law, can deal with online accounts and assets. UFADAA does not create new law, but rather enables fiduciaries and online providers to comply with the current law without inadvertent exposure to federal laws. Otherwise, fiduciaries are in the impossible position of being ordered to marshal and distribute assets without the ability to gain access. UFADAA avoids such chaos.

Unfortunately, SB 369 did not make it out of the Senate Rules Committee. The Oregon State Bar's Susan Grabe commented, "The bill has been the subject of much discussion and a small workgroup has been working on amendments that most people have agreed to, but that the high tech industry cannot. There is some talk that the National Conference of Uniform State Laws Commission will take the issue up again and see whether there are changes they can make to the uniform act that will make it more acceptable. Uniformity in this area would be important."

What to do in the meantime

Talk with your clients about a Virtual Asset Instruction Letter (VAIL). VAIL is a term coined by Michael Walker of Samuels Yoelin Kantor, LLP (SYK). Jeff Cheyne of SYK developed the following VAIL checklist for clients:

- First, identify each Internet account that you have and determine how each company handles an account when the account holder dies.
- Second, determine which accounts you want your representative to maintain and have access to, and prepare a written and electronic file list of those accounts with their passwords.
- Third, determine which accounts you wish to have deleted and provide the necessary written instructions to do so.
- Fourth, consider saving the account and access information on a CD or memory stick and store it in a safe place. Give your representative instructions about how to access this information. Don't forget to update it as passwords change.
- Fifth, if you have a collection of pictures or other memorabilia that are being stored on the Internet, consider making a backup of that information to a disk drive or CD that you control. Store this information in a safe place, and provide your personal representative with instructions on how to obtain that information.
- Sixth, upgrade your power of attorney to include provisions that authorize your agent to access your emails and other electronic data.
- Seventh, if someone other than your personal representative is being designated to handle your electronic data, then that individual should be named in your will or other estate planning documents.

Attorneys should use language in estate planning documents that specifically authorizes a fiduciary to use and access digital accounts and information.

See page 5 for suggested language. ■

Suggested language for estate planning for digital assets

From a presentation by Victoria Blachly and Jeff Cheyne at the 2015 Oregon Society of Certified Public Accountants Estate and Trust Conference

Provision for Power of Attorney

Specific Powers. Without in any way limiting the generality of the power and authority conferred upon my agent under Section 1, my agent shall have and may exercise the specific powers set forth below.

Digital Assets. To access, modify, control, archive, transfer, and delete my digital assets. Digital assets include my sent and received emails, email accounts, digital music, digital photographs, digital videos, gaming accounts, software licenses, social-network accounts, file-sharing accounts, financial accounts, domain registrations, Domain Name System (DNS) service accounts, blogs, listservs, web-hosting accounts, tax-preparation service accounts, online stores and auction sites, online accounts, and any similar digital asset that currently exists or may be developed as technology advances. My digital assets may be stored on the cloud or on my own digital devices. My agent may access, use, and control my digital devices in order to access, modify, control, archive, transfer, and delete my digital assets—this power is essential for access to my digital assets that are only accessible through my digital devices. Digital devices include desktops, laptops, tablets, peripherals, storage devices, mobile telephones, smartphones, and any similar hardware that currently exists or may be developed as technology advances.

A More Comprehensive Provision

The powers of my Personal Representative and the Trustee shall also include the following powers:

Digital Assets and Accounts. My Personal Representative or the Trustee may take any action (including, without limitation, changing a terms of service agreement or other governing instrument) with respect to my Digital Assets and Digital Accounts as my Personal Representative or the Trustee shall deem appropriate, and as shall be permitted under applicable state and Federal law. My Personal Representative or the Trustee may engage experts or consultants or any other third party, and may delegate authority to such experts, consultants, or third party, as necessary or appropriate to effectuate such actions with respect to my Digital Assets or Digital Accounts, including, but not limited to, such authority as may be necessary or appropriate to decrypt electronically stored information, or to bypass, reset, or recover any password or other kind of authentication or authorization. If my Personal Representative or the Trustee shall determine that it is necessary or appropriate to engage and delegate authority to an individual pursuant to this paragraph, it is my request that [Insert Name of Digital Asset Representative] be engaged for this purpose. This authority is intended to constitute "lawful consent" to a service provider to divulge the contents of any communication under The Stored Communications Act (currently codified as 18 U.S.C. §§ 2701 et seq.), to the extent such lawful consent is required, and a Personal Representative or Trustee acting hereunder shall be an authorized user for purposes of applicable computer-fraud and unauthorized-computer-access laws. The authority granted under this paragraph shall extend to all Digital Assets and Digital Accounts associated with or used in connection with the Business (as defined in the Article herein entitled "The Closely-Held Business"). The authority granted under this paragraph is intended to provide my Personal Representative or the Trustee with full authority to access and manage my Digital Assets and Digital Accounts, to the extent permitted under applicable state and federal law and shall not limit any authority granted to my Personal Representative or the Trustee under such laws.

The following definitions and miscellaneous provisions shall apply under this Will:

Digital Assets, Accounts, and Devices. The following definitions and descriptions shall apply to the authority of the Personal Representative and Trustee with respect to my Digital Assets and Accounts:

"Digital Assets" shall include files created, generated, sent, communicated, shared, received, or stored on a Digital Device, regardless of the ownership of the physical device upon which the digital item was created, generated, sent, communicated, shared, received, or stored (which underlying physical device shall not be a "Digital Asset" for purposes of this Will).

A **"Digital Device"** is an electronic device that can create, generate, send, share, communicate, receive, store, display, or process information, including, without limitation, desktops, laptops, tablets, peripherals, storage devices, mobile telephones, smart phones, cameras, electronic reading devices, and any similar digital device which currently exists or may exist as technology develops or such comparable items as technology develops.

"Digital Account" means an electronic system for creating, generating, sending, sharing, communicating, receiving, storing, displaying, or processing information which provides access to a Digital Asset stored on a Digital Device, regardless of the ownership of such Digital Device.

For the purpose of illustration, and without limitation, Digital Assets and Digital Accounts shall include email and email accounts, social network content and accounts, social media content and accounts, text, documents, digital photographs, digital videos, software, software licenses, computer programs, computer source codes, databases, file sharing accounts, financial accounts, health insurance records and accounts, health care records and accounts, domain registrations, DNS service accounts, web hosting accounts, tax preparation service accounts, online store accounts and affiliate programs, and other online accounts which currently exist or may exist as technology develops, or such comparable items and accounts as technology develops, including any words, characters, codes, or contractual rights necessary to access such items and accounts. ■

LC 552: Elder Law Section attempts to address judicial concerns about professional fiduciaries

By Michael Schmidt, Attorney at Law

Michael Schmidt is past chair of the Elder Law Section Executive Committee. He has practiced elder law in Washington County for many years and was just honored by the Washington County Bar with its 2015 Professionalism award.

Family and friends are not always available or appropriate to serve as guardians. The resources of public and nonprofit guardians have been insufficient to cover this gap in the need for effective fiduciaries. For many years, professionals have been providing guardian services to protected persons when others have not been available. These services have become an established part of Oregon's protective proceeding system. Some judges have expressed concern over the practice, so the Elder Law Section proposed legislation to address some of these concerns.

Many professional fiduciaries have organized their services as business entities such as corporations or limited liability companies. Professional fiduciaries believe that the flexibility offered by a business entity provides for efficient changes in ownership and personnel without disruption of services to the protected person. As businesses, the professional fiduciaries have a vested interest in making sure that the protected person is provided good service.

It appears that in most counties the courts are appointing business entities as guardians. However, some judges have expressed reservations about this practice and there is at least one judge that will not appoint a business entity, requiring instead that an individual be named the guardian. Among the concerns raised by judges are:

- The court wants an individual it can hold responsible within the business entity for any problems. The court does not want to be in the position of trying to track down or determine which individual within the organization should be held responsible if something goes wrong.
- When there is a proposed change in the guardian, the required procedure is a petition nominating the new guardian, notice to interested persons and the protected person, opportunity to object, and the appointment of a visitor to determine the suitability of the proposed guardian. Under the current system, when a business entity changes owners or replaces the primary decision maker there is no petition, no notice with opportunity to object, nor appoined visitor, because the named guardian has not changed. There is a requirement that a change in the primary decision maker be disclosed to the court, but there is no statutory procedure to ensure the disclosure is brought to the attention of the court. Some courts by local rule have established such a procedure.

To address some of these concerns, the Elder Law Section Executive Committee proposed legislation which was drafted by the Office of Legislative Counsel as LC 552 for introduction in the 2015 session. Over two meetings held December 10, 2014, and January 7, 2015, stakeholders—including attorneys, professional guardians, and judges—reached the consensus that an agreeable legislative concept, or even a temporary "fix," could not reasonably happen for the 2015 legislative session. The reservations expressed by the stakeholders included:

- LC 552 in effect recognizes that business entities can serve as guardians
  Despite the current use of business entities, the statutory scheme does not necessarily contemplate business entities. Currently, appointment of a business entity is based upon the historic court interpretation that "person" includes a business entity. The existence of business entities as guardians by statute has never been consciously considered by the legislature. The inclusion of business entities as guardians should be a policy decision best explored by a larger group, considered more fully by elected officials, and made as part of a comprehensive amendment to ORS Chapter 125.
- Whether notice or petition to the court is the appropriate process when there is a change of business entity ownership or the business entity changes the primary decision maker
- A review of how other states address the issue of business entities that serve as guardians should be conducted
- Whether the discussion be expanded to include professional conservators
- The fiscal effect on the court and the protected person of any procedure adopted relating to business entity changes

The stakeholders came to the conclusion that LC552 did not provide enough positive effect to protected persons, so it was not introduced. They were not comfortable proceeding without the creation of either a wider group of stakeholders or a legislative task force, with more time to research, deliberate, and weigh the issues. ■

Update on advance directive legislative work group

By Stephanie Carter, Attorney at Law

Stephanie Carter is an attorney with the Lake Oswego firm of Draneas & Huglin, P.C. She practices in the areas of estate planning, estate and trust administration, guardianships, and conservatorships. She also serves as a fiduciary through Pegasus Fiduciary Services, LLC, and serves on the board of Elders in Action.

I serve on a work group created by Senator Floyd Prozanski (D–Eugene) to shape legislation that will amend the Oregon advance directive statutes. The intent is to finalize legislation this fall in order to introduce a bill during the 2016 legislative session.

The work group was created after an April 7 hearing on SB 193-2 before the Senate Committee on Judiciary. Attorneys Hilary Newcomb and Jeff Cheyne attended the hearing. Matt Whitman, chair of the Estate Planning and Administration Law Section, submitted written testimony from the section in opposition to the bill and amendments.

The work group members represent many different stakeholder groups: the Oregon State Bar, the Oregon Medical Association, representatives from the health insurance industry, major hospital networks, and nonprofits (e.g., AARP, Departing Decisions, and Code Conversations).

As you can imagine, the stakeholder groups bring competing views of what the legislation should look like. The one point all agree on is that a change is necessary.

One proposal would essentially gut the advance directive statute. The statute would contain no form at all and would not even set forth the minimum requirements for any instrument to appoint a health care representative (HCR) or provide health care instructions. Such minimum requirements would be determined through a rulemaking process. SB 193-2 proposed that the Oregon Health Authority would be tasked with creating a rules advisory committee to oversee that process.

A second proposal would retain a mandatory statutory form. Oregon is among a handful of states that retain a mandatory statutory form of advance directive.

Ranged between these extremes are more moderate proposals. For example, many state statutes include an optional form for either or both of the appointment of an HCR or the documentation of end-of-life instructions (i.e., living will). These states usually include in the statute specific information that must be included in such a form.

Another proposal would be to allow Oregon residents to execute other forms, most prominent among them the *Five Wishes* form. *Five Wishes* was originally introduced in 1996 as a Florida-only document. It combined a living will and health care power of attorney to address matters of comfort care and spirituality. Interestingly, legislation to adopt *Five Wishes* as an alternate form in Oregon failed in 2001 (HB 3443). Proponents argue that, in our mobile society, people may divide their time among multiple states. Allowing one of these national forms would avoid the necessity of executing multiple advance directives, which may conflict.

One problem with some of these "national" forms is that they purport to give the HCR authority that may conflict with other Oregon statutes or the powers given to other fiduciaries appointed by either the court or the principal. For example, the *Five Wishes* form allows the HCR to hire or fire health care workers. This could be problematic if the HCR is not also the fiduciary who has authority to act for the principal in financial matters (e.g., a conservator, an agent under a power of attorney, or a trustee).

So what has the work group being doing? A smaller subsection of the work group has prepared surveys of stakeholder groups. Approximately 275 members of the OSB Elder Law, Estate Planning, and Health Law sections responded to the online survey that was made available in June. A similar survey will soon be made available to other stakeholder groups, including medical providers.

Highlights of the survey results include:

- 69.55% would retain a single statutory form of appointment of HCR and health care instructions, but make it more user-friendly.
- 81.39% would keep the appointment of HCR and health care instructions together in one document.
- 91.58% would allow the principal to list more than one alternate HCR.
- 52.81% would not allow co-health care representatives.
- 50.18% would retain the same witness requirements; 41.03% would allow a notarization to substitute for witnesses.
- 64.96% would retain the requirement that the HCR accept the appointment.
- 86.45% of those who responded regularly complete Advance Directives with their clients.

Those who responded provided 950 comments that give valuable insight into the reasoning behind the responses. We are still digging through that information.

I worked with two other work group members to draft a proposed form for appointment of a HCR. This form is currently under review by work group members. Meetings of the full work group will continue. ■

Resources for elder law attorneys

Events

Elder Law Discussion Group

Noon-1:00 p.m.
Legal Aid Services Portland conference room
520 SW Sixth Ave, 11th Floor, Portland
Coffee will be provided.
Conference Call: 716-273-1257
Access code: 19412853

- August 13, 2015: David Koen from Legal Aid Services of Oregon will present on "Changes in Reverse Mortgage Rules."
- September 10, 2015: "K Plan Rules and Updates." Speaker TBD.

10 Ethical Pitfalls When Lawyers Use LinkedIn
Georgetown Law CLE Webcast
August 7, 2015; 9:45–10:45 a.m. PT
www.osbar.org/cle

Elder Abuse Reporting
Free OSB CLE seminar
August 8, 2015
Best Western Plus Hood River Inn
1108 E Marina Dr.; Hood River
www.osbar.org/cle

Estate Planning with Annuities and Financial Products
OSB Audio Seminar
August 11, 2015; 10–11 a.m. PT
www.osbar.org/cle

Thou Shalt Not Lie, Cheat, or Steal: The Ten Commandments of Legal Ethics
OSB Webinar
August 11, 2015; 10–11 a.m. PT
www.osbar.org/cle

National Aging and Law Conference
October 29–30, 2015
Washington, DC
"Celebrating Anniversaries with Action"
2015 marks the following:
80th anniversary of Social Security
50th anniversary of Medicare and Medicaid
50th anniversary of the Older Americans Act
25th anniversary of the Americans with Disabilities Act
www.americanbar.org/groups/law_aging.html ■

Websites

Elder Law Section website
www.osbar.org/sections/elder/elderlaw.html
The website provides useful links for elder law practitioners, past issues of *Elder Law Newsletter,* and current elder law numbers.

Oregon State Legislature
www.oregonlegislature.gov
Search Oregon Revised Statutes, track legislative bills, and more.

National Academy of Elder Law Attorneys (NAELA)
www.naela.org
A professional association of attorneys who are dedicated to improving the quality of legal services provided to people as they age and people with special needs.

OregonLawHelp
www.oregonlawhelp.org
Helpful information for low-income Oregonians and their lawyers. Much of the information is useful for clients in any income bracket.

Administration on Aging
www.aoa.gov
This website provides information about resources that connect older persons, caregivers, and professionals to important federal, national, and local programs.

Aging and Disability Resource Connection of Oregon
www.ADRCofOregon.org
This is a free service to help people learn about public and privately paid options to address aging or disability needs, or to help families and caregivers. Includes downloadable *Family Caregiver Handbook*, available in English and Spanish versions. Your clients can also call 1.855.673.2372, enter their ZIP codes, and get connected with the nearest ADRC office.

Big Charts
http://bigcharts.marketwatch.com
Provides the price of a stock on a specific date. ■

Elder Law Discussion List

The discussion list provides a forum for sharing information and asking questions. To post to the list, enter **eldlaw@forums.osbar.org** in the *To* line of your email. ■

Book

My Stroke of Insight: A Brain Scientist's Personal Journey
By Jill Bolte Taylor, Ph.D.
A personal account of the experience of having a stroke and recovering from it. Provides insight into how stroke patients perceive the world, how best to interact with a person who has had a stroke, and the process of recovery. ■

Important elder law numbers

as of
JJuly 1, 2015

Supplemental Security Income (SSI) Benefit Standards	Eligible individual ..... $733/month Eligible couple $1,100/month
Medicaid (Oregon)	Asset limit for Medicaid recipient ..... $2,000/month Long term care income cap ..... $2,199/month Community spouse minimum resource standard ..... $23,844 Community spouse maximum resource standard ..... $119,220 Community spouse minimum and maximum monthly allowance standards ..... $1,992/month; $2,980.50/month Excess shelter allowance ..... Amount above $598/month SNAP (food stamp) utility allowance used to figure excess shelter allowance ..... $446/month Personal needs allowance in nursing home ..... $60/month Personal needs allowance in community-based care ..... $163/month Room & board rate for community-based care facilities ..... $570/month OSIP maintenance standard for person receiving in-home services ..... $1,233 Average private pay rate for calculating ineligibility for applications made on or after October 1, 2010 ..... $7,663/month
Medicare	Part B premium ..... $104.90/month* Part D premium: ..... Varies according to plan chosen Part B deductible ..... $147/year Part A hospital deductible per spell of illness ..... $1,260 Skilled nursing facility co-insurance for days 21-100 ..... $157.50/day * Premiums are higher if annual income is more than $85,000 (single filer) or $170,000 (married couple filing jointly).

Oregon State Bar

Elder Law Section