



# Elder Law Newsletter

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## Documents facilitate lifetime planning

By Ryan W. Collier

**A**lthough clients rightly associate elder law practitioners with the topics of death and dying, the value of our practice is planning for the living. We give ourselves the task of discussing the difficult issues of aging, disability, incapacity, mental health treatment, and disposition of human remains. Fortunately, here in Oregon we have tools that assist us during the planning process. This article discusses some of the tools at the practitioner's disposal.

### Durable Power of Attorney

A Durable Power of Attorney (DPA) is a valuable tool for the practitioner and client, but can be a dangerous weapon in the wrong hands. On one hand, a DPA allows a person to delegate to another the power to manage his or her affairs regardless of the principal's disability or incapacity. This power is very

personal and individual. Knowing that those daily operations can be handled if disability occurs can be a great sense of comfort and relief of a client. On the other hand, giving someone complete control over your client's daily life creates a significant risk of abuse. Thus, a client should use care when granting a power of attorney to an agent.

When preparing a DPA, a practitioner should take into account the abilities of the proposed agent, the level of trust between the principal and the agent, and the circumstances that trigger the use of the DPA. The practitioner and client must make decisions on whether the DPA takes effect immediately or upon disability, whether to grant authority to make gifts (including gifts to the agent), and whether the DPA limits the agent's authority by time or scope. Answers to these questions will depend on the circumstances of each client and the level of trust between the agent and the principal.

If the client chooses to make the DPA available to the agent only upon disability, care should be taken in defining the circumstances of disability and in determining who should hold the original document. If the practitioner holds the original or the client keeps the original in a safe deposit box, the risk of abuse is reduced. However, it may be difficult to obtain the DPA from the safe deposit box when disability occurs.

There is also risk to the practitioner if he or she holds the original. The client should sign a letter of instruction that specifies the circumstances under which the practitioner is authorized to release the DPA to the agent. If disability is to be triggered on the opinion of one or more physicians or family members, the letter should include an authorization for the physician to release confiden-

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*Oregon is a pioneer in its progressive approach to health care issues.*

*Not the least of these is the statute adopting an Advance Directive for Health Care.*

tial medical information to the practitioner or the agent. The consent must meet the new federal HIPAA requirements for the release of protected health information.

In preparing the DPA, the practitioner and client also should consider whether to authorize gifting, including gifting to the agent. Gifting is an important tool for estate value reduction and fulfilling a client's charitable and beneficial intent. Unless a DPA specifically provides for such gifting, such a power may not be recognized by federal or state agencies.

Another method of protecting the client is to limit the time or scope of the DPA. If the client only requires the assistance of an agent during a period of convalescence, such a limit should be placed in the document. The DPA also could restrict transfers to the agent or the buying and selling of the principal's property. By limiting the scope, the practitioner limits the potential for abuse. If the scope of the DPA includes buying, selling, gifting, or mortgaging real property, the client's signature should be notarized so that the DPA can be recorded.

In addition to considering the effective date, gift powers, and scope of the DPA, the practitioner should consider two statutes that affect its use. First, a power of attorney is not revoked at the instant of death, but at the time when the principal's death becomes known to the agent or third party. ORS 127.015. Agents acting in good faith under a power of attorney without knowledge of the death of the principal bind the principal and heirs, devisees, and personal representatives. Any third party who has not received actual notice of revocation of a power of attorney or death of the principal is not liable for actions taken in reliance on the power of attorney. Second, a person may not refuse to honor a power of attorney based on the passage of time since the power of attorney was executed. ORS 127.025. In my practice, I occasionally deal with financial institutions that refuse to honor an otherwise valid DPA that is more than two years old. A reference to the statute generally resolves the matter.

A DPA can be revoked at any time by a principal who has capacity, or by a conservator appointed by the court for a financially incapable principal. ORS 127.005(3). If the

DPA is revoked, it is important to notify the agent and any third parties who may have copies of the DPA.

Professor Valerie J. Vollmar's materials for the December 2002 OSB CLE on *Planning the Basic Estate* include a sample DPA with a number of different options.

### **Advance Directive for Health Care**

Oregon is a pioneer in its progressive approach to health care issues. Not the least of these is the statute adopting an Advance Directive for Health Care. (ADHC) ORS 127.505 et seq. The statute provides a form document that allows a client both to make decisions regarding end of life care and life support issues, and to create a basic power of attorney for health care issues. (See Form at ORS 127.531). Under the ADHC, an appointed health care representative holds authority over all the principal's health care that the principal would have if not incapacitated. ORS 127.535.

The ADHC requires two witnesses. The health care representative and alternate, and the attending physician cannot serve as witnesses. The health care representative and alternate have to agree to accept the appointment. The principal can revoke either the ADHC or a specific health care decision, in writing or otherwise. ORS 127.545.

The ADHC does have several limitations. The health care representative has authority to make health care decisions when the principal's attending physician (or a court) determines that the principal lacks the ability to make and communicate health care decisions. ORS 127.505(13). The ADHC provides no authority relating to mental health treatment, convulsive treatment, psychosurgery, sterilization, and abortion. The health care representative also does not have authority over life-sustaining procedures unless specifically granted the authority in Part B, Sections 2 and 3 of the form. The authority also likely excludes issues related to organ donation, autopsy, and experimental treatments. Additional documents may be required for these situations. The ADHC provides a useful tool to discuss end-of-life care with clients. It encourages the client to discuss issues that are often difficult, such as death and dying.

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## Planning documents *Continued from page 2*

### Declaration for Mental Health Treatment

One document that receives less attention than it deserves is the Declaration of Mental Health Treatment. Many elderly clients may eventually suffer from dementia, Alzheimer's disease, or various other mental illness conditions as they continue to age. In acknowledgment of these issues, the Oregon Legislature adopted the Declaration for Mental Health Treatment Act in 1993, which it revised substantially in 1997. The statute requires all health care and mental health care organizations to adopt policies to provide patients with information regarding their mental health rights and their ability to make mental health decisions, including executing the statutory declaration. The statutory form is similar to the ADHC, and also requires witnesses. It provides for the appointment of a decision maker and for directions relating to mental health treatment. ORS 127.736.

### Anatomical Gifts

A practitioner should find out whether the client has considered the authorization of anatomical gifts. The typical response from clients is, "Who will want my old body?" In reality that "old body" can be valuable to sustaining life through scientific research or organ transplant. Many educational institutions, such as the Oregon Health Sciences University, need anatomical gifts for the benefit of medical education. Body parts, including blood plasma, are invaluable in saving lives. A client may make an anatomical gift either by a document of anatomical gift signed by the donor, through designation on a driver's license or identification card from the Department of Transportation, or by will. ORS 97.952. In the event a donor is unable to sign, the document of anatomical gift may be executed by another at the donor's direction before two witnesses. Once made, the anatomical gift may be amended or revoked by a signed statement, an oral statement before two witnesses, an oral statement to a physician during the progression of a terminal illness, or by destruction of the gifting document. If a client fails to make such a gift, a statutory class of people are authorized after death to make the donation. The authority is vested in the following people in the following order: spouse, children over

the age of 18, parent, sibling, guardian, next of kin, personal representative, the nominated personal representative in a will, and a public health officer. The anatomical gift will be valid unless opposed by a member of this class. Even if donor-authorized, an anatomical gift may run into trouble if the family members do not agree. The practitioner should stress the need for the client to inform his or her family in advance.

### Disposition of human remains

A practitioner should encourage clients to consider the disposition of their remains after death. These decisions made during one's life often will save loved ones the trouble of making difficult decisions during a period of grieving after death. A person may make decisions regarding the disposition of their human remains either through written, signed instructions or through pre-arrangement with a licensed funeral service. A person may also appoint someone to make decisions concerning the disposition of human remains by using a statutory form. ORS 97.130(7). This declaration requires witnesses. Like the statute regarding anatomical gifts, if a person fails to create valid written instructions or arrangements during life, a class of persons is authorized to make these decisions after death. If a conflict arises, an anatomical gift before or after death takes priority over directions for disposition of remains.

### Process itself is important

While these documents are important, their value often lies in the process more than the finished product. The documents become a catalyst for the practitioner to inquire about a client's wishes. The client's family also may learn the client's concerns regarding issues of care during incapacity, life sustaining treatment, and disposition of remains. Many clients and families of clients would not otherwise discuss these issues before a crisis in care occurs. A practitioner would be wise to discuss and resolve these issues with a client while the client is capable. Once a client becomes incapacitated, it is too late.

For more information relating to these documents or other questions, please feel free to contact me: 503.581.1542 or [rcollier@clarklindauer.com](mailto:rcollier@clarklindauer.com)



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# How title companies view powers of attorney

By Jeff Steffen, House Counsel, LandAmerica Transnation Title Insurance Company

As underwriting counsel of a large title insurance and escrow company, I have had the opportunity to review hundreds of powers of attorney. Most have been found acceptable to allow the attorney-in-fact to sign the various deeds, encumbrances, and other legal documents presented to escrow to close a real estate transaction. However, some powers of attorney have been found to be inadequate and their intended use rejected. It is the intent of this article to point out some of those items that present areas of concern to the title company.

## Competency

Obviously the principal signing the power of attorney must be legally qualified to do so by age and mental capacity. A minor or an incapacitated person cannot create a valid power of attorney. It should come as no surprise that a title company will look very suspiciously at the date the principal signed the POA document, especially when it is revealed that the principal is now unable to act on his or her own behalf because of mental infirmity. If the principal's signature is relatively recent, (i.e. less than one year), an affidavit of an attending physician will probably be required, addressing his patient's state of mind on the date the power of attorney was signed. If the doctor is satisfied that his patient was legally competent on that date, the title company will likewise be satisfied.

## Recordability

Title companies will require that a power of attorney be recorded in every county where its use deals with real property. By recording, the power of attorney becomes part of the real property's chain of title. To be recorded, a power of attorney must be properly notarized. If the grantor's signature is not acknowledged by a notary public, the power of attorney will not be accepted for recording.

## Age of Power of Attorney

The fact that a power of attorney was signed many years ago should not alarm the title company. I remember one transaction where an elderly woman was trying to sell the family home, but was frustrated because her husband was suffering from recently

diagnosed Alzheimer's disease and could not sign the deed. The problem was resolved when she produced a POA signed by her husband 50 years earlier as he boarded a troop ship to fight in World War II. It was still valid. There was no reason to not accept it just because so many years had passed. If you come across a title company employee who is less than enthusiastic about accepting an old power of attorney, point out ORS 127.025 to him or her. This statute makes it clear that the mere passage of time since the power of attorney was executed is not a valid basis for rejecting the power of attorney.

## Legal Descriptions

A general power of attorney, because of its broad grant of powers, does not normally contain a description of real property. This is because its use is not limited to a specific parcel of real property. This is not the case with a limited or special power of attorney which authorizes the attorney-in-fact to buy, sell, mortgage or otherwise deal with a particular parcel of real property. Here the specific parcel of real property must be adequately described. (See ORS 93.600) Reference to a street address or to a tax account number is not acceptable to the title company. You will need to use the correct lot and block number of a platted subdivision, a partition plat designation or a metes and bounds description. If you do not know the correct legal description to use, call the title company. Their customer service department will be happy to provide a copy of the legal description to you with no charge.

## Self dealing

As a general rule, title companies will not allow the attorney-in-fact to use the power of attorney to convey property to himself or herself. We have seen too many situations where a power of attorney from an elderly parent is used by sons or daughters to deed property to themselves, so that they can mortgage the property in their own names to pay off their personal debt. Unless otherwise provided in the power of attorney document, an attorney-in-fact must use the property of the principal for the benefit of the principal. ORS 127.045 A title company will not allow the power of attorney to be used where it appears the attorney-in-fact and not the principal benefits. The only exception to this general rule is where self-dealing is specifically authorized by the power of attorney document.

## Gifting

Unless the power of attorney contains a provision specifically authorizing the attorney-in-fact to give property away for no consideration to others, a title company will balk at its use to make a gift. This is because a power of attorney will be strictly construed by the courts if challenged. (See *Coulter v. Portland Trust Co.*, 26P, 565, 20 OR 469.)

## Delegation of power

People in fiduciary relationships generally are not allowed to assign their authority to others. (See *Blackfeet Livestock Co. v. Northwestern National Bank*, 5P, 2d 702, 138 OR 530.) This principle applies

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## A look at the Stevens Ness Power of Attorney forms

By Cynthia Barrett

Having to go down to the Multnomah County probate court has its pluses. You visit with the other lawyers waiting to see the judge. You also get to visit Stevens Ness and obtain the odd form you need back at the office.

Stevens Ness is a long time publisher of legal forms, used by both consumers and lawyers. In 2002, the company issued new versions of its Financial Power Of Attorney, Forms 15, 654, and 853. The company is careful with its forms, responsive to practitioner suggestions, and constantly updates documents to reflect statutory changes.

Lawyers have access to alternate resources suggesting language to include in financial powers. See both Professor Valerie Vollmar's discussion and suggested forms, *Planning the Basic Estate*, Vol. II, p. 2-53, 2-193, Oregon State Bar, 2002, and the practitioner tips and form suggestions in *Elder Law*, Chapter 1, Oregon State Bar, 2000. Many other groups (ACTEC and NAELA among them) disseminate suggested language for practitioners to consider including in their financial powers of attorney.

Many Oregon practitioners rely on the Stevens Ness form documents, because they are recognized by a wide range of individuals and institutions. Elder law attorneys frequently face questions about whether agents named in Stevens Ness form powers of attorney can take specific actions.

**Stevens Ness Form 15** is a generic form financial power of attorney, with a big blank space to have powers typed in, and grants "full power and authority to do and perform any act and thing..." "for my use and benefit...". The power appears to be immediately effective, and contains no limitations of period of time for effectiveness, so by ORS 127.005, the form is durable, which means that it can be used by the agent "notwithstanding the later disability or incompetence of the principal at law." The general grant of authority is not specific enough to work for most financial institutions, selling real estate, etc., so the form contemplates that the large blank space will be filled in with typed specifics.

**Stevens Ness Form 654** is titled *General Power of Attorney - Durable (Short Form)*. This form grants "full power and authority to do and perform any act and thing..." "...for my use and benefit..." and several specific powers, such as handling real estate, sue for and receive money, sell stock, deal with bank accounts and safe deposit boxes, etc. The form has alternate effective dates: on the date signed, or on the date "I am adjudged incompetent by a court of proper jurisdiction." If neither phrase is deleted, the form is effective on the date signed. This form will be honored by more financial institutions, as it specifically permits particular acts (i.e. dealing with safe deposit boxes), but is not a guide to the family members about the grantor's wishes during incapacity. This form has a small blank space, and contemplates that the attorney may type in a specific power relating to the client situation.

**Stevens Ness Form 853** is titled *General Power of Attorney - Durable (Individual or Corporate)*. This form grants "full power and authority to do and perform any act and thing..." "...for my use and benefit..." and many specific powers. Like Form 654, this document has alternate effective dates: on the date signed, or on the date "I am adjudged incompetent by a court of proper jurisdiction." If neither phrase is

deleted, the form is effective on the date signed.

### Incapacity

Elder law attorneys want everyone to plan for incapacity by executing financial powers of attorney that permit, at the least, management of the principal's affairs after incapacity, without expensive court action.

All three of the Stevens Ness forms permit management after incapacity, but the two longer forms (654 and 853) may require expensive court action to become usable. They require, if made effective on the date the grantor is adjudged incompetent [modern phrase is "financially incapacitated" ORS 125.005(3)] the cost and expense of a conservatorship court proceeding. The client who signs a power of attorney often hopes to avoid the expense of court intervention.

The elder law attorney usually wants a financial incapacity document to be more than a simple management tool. That is, the elder law attorney wants to incorporate instructions on matters important to the principal.

A customized FPOA can guide the agent in deciding how to use the principal's funds: home care wishes, pet care expenses, and specific services to pay for (including case management, health care advocacy, and the agent's services). It can also provide for some protections, such as an annual accounting by the agent to the principal and other family members. The document is usually immediately effective. See the Oregon State Bar *Elder Law* (2000), Forms at the end of Chapter 1.

### Gifting Authority and the Stevens Ness Forms

Under the common law, certain powers, including the power to make gifts, are labeled "extraordinary." If the principal intends the agent to have that power, the better practice is to include it in the FPOA. This becomes even more important when the agent is being authorized to make gifts to himself or herself, which might otherwise be interpreted as a violation of the agent's fiduciary duty to the principal.

The elder law attorney usually counsels the client who may need assistance to pay

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**Stevens Ness forms** *Continued from Page 5*



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for long term care in the future to consider adding the power to make gifts and transfers to protect spouses and disabled children from impoverishment by the principal's health care costs. In some cases, the client wants to include gifting authority for tax planning and transfers to heirs.

The agent under power of attorney may find that gifts to another person, without explicit authority in the document permitting such gifting, are deemed revocable at death and are included in the principal's gross taxable estate under IRC 2038(a)(1). Although the United States Tax Court, in *Estate of Pruitt*, TC Memo 2000-287, permitted an Oregon agent's annual exclusion gift to reduce the gross taxable estate, despite the absence of specific gift-giving authority in the financial power of attorney, the attorney who counsels an agent to rely on that tax court case is walking on very thin ground. As the Tax Court noted:

"Oregon has not established, either through case law or statute, a bright-line rule flatly prohibiting gifts by attorneys-in-fact to themselves or to third

parties absent express written authorization in a power of attorney." *Estate of Pruitt*, TC Memo 2000-287, p. 16

The court reviewed two Stevens Ness forms (earlier versions of Form 853) and one generated by the lawyer's office computer. The court interpreted the documents in light of the principal's lifelong pattern of gift-giving, and noted both that the gifts did not impoverish the principal and that they carried out the principal's estate plan as set out in her will.

The Stevens Ness powers of attorney forms do not contain specific instructions that will guide the agent about the grantor's specific wishes: the choice of living situation, saving the house from health care costs prior to Medicaid eligibility, payment to care providers including family members, and the myriad of other possible specific authorizations contained in most elder law financial powers of attorney. To review some agency powers recommended by elder law attorneys for inclusion in a financial power of attorney, refer to the first chapter of the OSB publication *Elder Law* (2000).

**Important elder law numbers**

January 1, 2003

*Editor's note: The room & board rate for community-based facilities was incorrect in the Winter issue. The amount was increased to \$449.70, because of an increase in the personal allowances for residents from \$100 to \$104.*

<b>Supplemental Security Income (SSI) Benefit Standards</b>	Eligible individual ..... \$552/month Eligible couple ..... \$829/month
<b>Medicaid (Oregon)</b>	Asset limit for Medicaid recipient ..... \$2,000 Burial account limit..... \$1,500 Personal needs allowance in nursing home..... \$30/month Room & board rate for community-based care facilities..... \$449.70/month OSIP Maintenance Standard for person receiving in-home services ..... \$553.70 Long term care income cap. .... \$1,656/month Community spouse minimum resource standard..... \$18,132 Community spouse maximum resource standard ..... \$90,660 Community spouse minimum monthly maintenance needs allowance ..... \$1,493/month Excess shelter allowance ..... Amount above \$448/month Food stamp utility allowance used to figure excess shelter allowance ..... \$261/month* *\$186 without heating and cooling cost Average private pay rate for calculating ineligibility for applications made after October 1, 2002 ..... \$4,300/month
<b>Medicare</b>	Hospital deductible per illness spell ..... \$840 Skilled nursing facility co-insurance for days 21-100..... \$105/day Part B premium..... \$58.70 /month Part B deductible ..... \$100/year

# Powers of Attorney and taxing authorities

by Katherine M. Zelko

Will a power of attorney be acceptable to the Internal Revenue Service (IRS) and the Oregon Department of Revenue (ODR)? The short answer is that for purposes of preparing, filing and signing returns for the principal (the person who signs the power of attorney or grants the authority), a power of attorney (POA) in the usual form will probably work just fine. However, if there is an audit or other contested matter, it will likely be necessary for the attorney-in-fact to appoint a tax professional to represent the principal before the IRS or ODR, and therefore, the POA document should contain authority to do so.

There is much confusion in this area, partly because the IRS and ODR have forms titled "Power of Attorney," but they operate quite differently from the standard POA.

## Signing and Filing Tax Returns

The IRS will accept a tax return signed by an attorney-in-fact if a copy of the POA is attached to the return and the power of attorney contains authority to sign tax returns. See IRS Publication 17, *Your Federal Income Tax* (2002). At the State level, ORS 316.377 requires that the income tax return of a person under disability "shall be made and filed by a duly authorized agent of the individual." The ODR does not prescribe any particular method for establishing the authority of the agent; attaching a copy of the power of attorney each year seems to suffice in my experience and those of the practitioners consulted in writing this article.

Both the current Stevens-Ness general POA form and the form provided with *Basic Estate Planning* (Oregon State Bar CLE, 2002), as well as most forms in common usage, contain authority to sign tax returns for the principal.

## Other Tax Proceedings

If a tax return is examined or an assessment is made against the principal, it will become more difficult for the attorney-in-fact to act for the principal without the assistance of a tax professional. In non-tax arenas, the attorney-in-fact generally "stands in the shoes" of the principal. In this context, however, even if the principal could have represented himself or herself before the IRS or ODR, the principal's attorney-in-fact cannot do so unless the attorney-in-fact is qualified under IRS or ODR rules. If the attorney-in-fact is not qualified to practice before the IRS or ODR, does this mean that a conservator will have to be appointed for the principal? Not necessarily. If the POA document grants the appropriate authority, the attorney-in-fact can appoint a qualified person to represent the taxpayer/principal.

## IRS

Only certain persons may represent a taxpayer before the IRS. 26 CFR 601.502. These include certain tax professionals such as attorneys and CPAs, as well as a taxpayer's spouse, parent, child or sibling. IRS Form 2848, "Power of Attorney and Declaration of Representative," is used to authorize professionals or these relatives to deal with the IRS on behalf of the taxpayer for specific tax matters for specific tax periods or years. The tax periods or years cannot end any later than 3 years after the date the Form 2848 is received by the IRS. Thus

the Form 2848 – where it is signed by the client/principal – is not of much use in cases of prolonged incompetency, or where the attorney-in-fact is not a close relative or tax professional.

Fortunately, the IRS also has a procedure it calls "perfecting a non-IRS power of attorney" under which an attorney-in-fact may appoint a person authorized to practice before the IRS to represent the incapacitated principal. See IRS Publication 947, *Practice Before the IRS and Power of Attorney* (April 2002). This requires, of course, that the attorney-in-fact be authorized to handle tax matters and delegate authority to others. If so, the attorney-in-fact may sign a Form 2848 on behalf of the incapacitated taxpayer/principal, appointing a CPA, return preparer, or other professional to represent the principal. The attorney-in-fact must also sign a statement under penalty of perjury that he or she is acting under a power of attorney that is valid under the laws of the governing jurisdiction. Under this procedure, the attorney-in-fact could sign Forms 2848 when necessary and as often as necessary.

## ODR

ORS 305.230 requires that a person representing a taxpayer before the Department or the tax court must meet certain requirements, and the representation must be authorized in writing. In general, the representative must be an attorney, accountant, or tax practitioner. In contrast to the IRS rules, an immediate family member *cannot* be an authorized representative (unless he or she is also an attorney, accountant or tax practitioner). The form prescribed by the ODR to authorize the representation is Form 150-800-005, *Power of Attorney and Declaration of Representative*. It is very similar to IRS Form 2848.

Unlike the IRS, the ODR has no published procedures for the use of POAs, other than Form 150-800-005. An ODR source told me that the subject is under review, but at present the Department has been advised by legal counsel that the requirements of ORS 305.230 control over other Oregon laws

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## POA and taxing authorities *Continued from page 7*

applicable to durable powers of attorney. Thus, even if a durable power of attorney authorizes the attorney-in-fact to handle tax matters, he or she may not represent the taxpayer before the Department unless he or she is a person described in ORS 305.230. A duly acting attorney-in-fact should be able to appoint a representative who is qualified under ORS 305.230 to represent the incapacitated taxpayer/principal, but my source was not certain and the ODR has not said so in any published guidance.

Pending House Bill 2280, which would provide for a statutory form of power of attorney, permits a principal to grant the attorney-in-fact broad and comprehensive authority in tax matters, including representation of the principal, but it does not amend ORS 305.230. So it is not clear that the present ODR position would change even if HB 2280 were made law.

### Practice Considerations

In cases where incapacity is imminent and expected, and the client has a trusted tax advisor, a client could save some time and expense by signing the IRS Form 2848 and

the ODR Form 150-800-005. In the typical case, however, where clients are signing POAs "just in case," the most practical approach is to include broad powers in tax matters in the POA form, and authorize the attorney-in-fact to appoint other agents and delegate authority to them. This will permit the attorney-in-fact to sign and file tax returns and, if there is a contested tax matter, to appoint the principal's accountant or tax preparer to represent the principal before the IRS and ODR for the desired years and matters.

Should the POA state the exact tax years for which the attorney-in-fact is authorized to act, as some POA forms do? Theoretically, it should be sufficient to authorize the attorney-in-fact to act for the principal for any and all tax years. The attorney-in-fact can then designate the appropriate years when filling out the Form 2848 or ODR Form 150-800-005. However, because IRS and ODR policies can change and because the IRS and ODR Forms themselves require specific years to be stated, I generally state a range of tax years in my POA documents, starting with the earliest "open" tax year I think applies, and ending in some date far in the future (2015). "Open" tax years are those on which the statute of limitations has not run. That in itself can be a tricky question, but as a rule of thumb, the federal statute runs three years after a tax return is filed, unless there is a substantial understatement of income, in which case the period is six years. IRC §6501.

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## Property tax deferral for elders and persons with disabilities

April 15 is the deadline to apply for deferred property taxes on residences.

Persons age 62 or older and citizens receiving federal Social Security benefits due to disability or blindness may qualify for a deferral program if total household income is less than \$32,500 for the preceding year.

If your client qualifies for one of the deferral programs, the state will pay his or her property taxes to the county. Interest on the deferred taxes, at six percent per year, is also deferred. A lien will be placed on the property.

Applications are available at each county assessor's office. For more information about the program, call 503.378.4988 or 800.356.4222.

## How title companies view POA

*Continued from page 4*

to corporate officers, personal representatives, and trustees. It also applies to attorneys-in-fact. The exception to this rule is where the power of attorney document specifically confers unto the attorney-in-fact the power to delegate. Unless a specific provision authorizing delegation can be found, a title company will not allow the attorney-in-fact to transfer his powers to a third person.

If there is anything to be learned from the above it is this: when drafting a power of attorney where the attorney-in-fact is to have the power to self deal, to make gifts, or to delegate these powers to another, make sure you include a specific provision for each. If using Stevens Ness general power of attorney form no. 853, you could add to item number 17 the following:

- In addition to any and all powers authorized by this power of attorney, my attorney-in-fact shall also have the authority
- A) to deed property to himself/herself for zero consideration or to otherwise use this power of attorney to benefit himself/herself as my attorney-in-fact deems fit and
  - B) to deed property to others for zero consideration or to otherwise make gifts of my property to others as my attorney-in-fact deems fit and
  - C) to delegate to others any or all of these powers granted to my attorney-in-fact by this power of attorney.

## Customizing the Oregon Advance Directive

By Kristianne Cox, Attorney at Law, Portland

Contemplating the serious accidents and illnesses that could leave us unconscious or unable to communicate is unpleasant. Dying in pain is a chilling prospect. When we think about it—if we think about it—most of us offer a fleeting, fervent wish that we'll go to bed in relative health one night and drift away painlessly in our sleep.

While wishing for the best is understandable, our job as elder law attorneys is to help our clients plan against the worst. In the context of the dying process and incapacitating illness or injury, two tools are the Oregon Advance Directive for Health Care and the POLST (Physician Orders for Life-Sustaining Treatment) forms. Clients who use these tools to consider their wishes and communicate their decisions to loved ones as well as to health care providers have a better chance of averting a family dispute, preventing an unwanted procedure, and avoiding a guardianship proceeding. This article gives an overview of customizing and advising clients on the Oregon Advance Directive. (For more information about the POLST form, see the OHSU article at [www.ohsu.edu/ethics/polstinstr.htm](http://www.ohsu.edu/ethics/polstinstr.htm).)

The form of the Oregon Advance Directive is mandated in ORS 127.531.<sup>1</sup> There are two main parts: Part B, Appointment of Health Care Representative; and Part C, Health Care Instructions. While on a quick reading the advance directive seems mostly straightforward, it does have a few quirks. It is after all a product of the legislative process. Perhaps the main quirk involves end of life care. It makes more sense to begin with numbered paragraph 5 in Part C (if the client chooses to complete Part C) rather than beginning with Part B.<sup>2</sup> Paragraph 5 has an "initial if this applies" space before the following statement:

"I do not want my life to be prolonged by life support. I also do not want tube feeding as life support. I want my doctors to allow me to die naturally if my doctor and another knowledgeable doctor confirm I am in any of the medical conditions listed in Items 1 to 4 above."

Whether or not the client (the "principal") agrees with this statement, the client's choices in Part C paragraphs 1 to 4 should be consistent with the client's agreement or disagreement with paragraph 5. If the client agrees with and initials paragraph 5, that decision will cover all of the conditions described in the preceding paragraphs 1 to 4 (close to death, permanently unconscious, advanced progressive illness, and extraordinary suffering).

Numbered paragraph 7 in Part C is confusing because "health care power of attorney" is not defined in the advance directive form. While the definitions in ORS 127.505 seem to include Part B as a health care power of attorney,<sup>3</sup> it seems nonsensical to offer a principal who may have just completed Part B the option of immediately revoking it. Paragraph 7 offers the option, "I have a health care power of attorney, and I REVOKE IT." One way to avoid the confusion for those also completing Part B is to modify the first sentence under "Initial One" to read: "I have signed an Appointment of Health Care Representative. I want it to remain in effect."

Part B, Appointment of Health Care Representative, provides space to appoint a "primary" health care representative and an alternate. Under ORS 127.520, certain persons, if unrelated to the principal by blood, marriage or adoption, may not serve as health care representatives, except as provided in ORS 127.635 or as may be allowed by court order. In addition, a capable principal has the right to disqualify, in writing, additional persons from making health care decisions for the principal. ORS 127.520(2). An attorney aware of family discord could draft a disqualification and counsel on its distribution to appropriate health care personnel and health care providers, easing the mind of a client who fears that an uncaring or malcontented relative or one with different beliefs or values might otherwise make unwelcome health care decisions later.

Clients sometimes wonder whether giving the representative decision-making power over life support and tube feeding in Part B numbered paragraphs 2 and 3 means that the representative could ignore any instructions in Part C. The answer is no: "the . . . representative has a duty to act consistently with the desires of the principal as expressed in the principal's advance directive . . ." ORS 127.535(4). Additionally, if an incapable—ORS 127.505(13)—principal manifests an objection to the withholding or withdrawal of life-sustaining procedures or artificially administered nutrition or hydration, the health care provider must treat this objection as if the principal were capable (i.e. must comply with the principal's wishes). ORS 127.535(5).

A health care representative has authority to make a health care decision for a principal only when the principal is incapable. ORS 127.535(1). For the appointment of a health care representative to be effective, the representative must accept in writing. The representative may withdraw by giving notice to the principal (if capable) or to the health care provider (after the principal becomes incapable). ORS 127.525.

Having your client complete a standard Oregon Advance Directive is a good start, but the standard form does not address

*Continued on page 10*

## Advance Directive

*Continued from page 9*

important issues such as pain control, hospice care, and home death. Offering your client a preprinted page of options to consider, initial or reject, and include as an attachment in the advance directive is efficient, and may later provide the extra guidance that a health care representative desperately wants. (My sample one-page form is provided at right.) If attaching additional instructions, insert "see attached page" in Part B paragraph 1 or Part C paragraph 6. Some lawyers and clients add custom instructions in those spaces, such as a direction to the representative to inform or consult certain people if the principal is hospitalized or if there is a significant change in the principal's condition. Including this type of direction can help a client who is having difficulty deciding which son or daughter to name as the health care representative.

Encourage your clients to discuss with their representatives their values and concerns, as this will give the representative a better understanding of the client's personal priorities and attitudes towards dying and life support. Conscientious elder law attorneys offer their clients a choice of "quality of life" provisions in revocable living trusts; we can also help our clients by offering them suggestions to improve their "quality of dying."

### Footnotes

1. Some attorneys print a customized advance directive for each client; others give clients a preprinted advance directive booklet to complete, such as the one that can be ordered in quantity from the non-profit organization Oregon Health Decisions, 800.422.4805.
2. Thanks to attorney Penny Davis for this sensible tip.
3. ORS 127.505(12) defines "Health care representative" to include, among others, an attorney-in-fact; 127.505(6) defines "attorney-in-fact" as "an adult appointed to make health care decisions for a principal under a power of attorney for health care..."

## ADDITIONAL INSTRUCTIONS FOR THE ADVANCE DIRECTIVE FOR \_\_\_\_\_

*Please staple this in your Advance Directive booklet*

### Use this checklist to properly complete Part B:

- \_\_\_ Complete Part B (beginning on page 2).
- \_\_\_ Sign and date the bottom of page 3.
- \_\_\_ Have two witnesses sign Part D (on page 7).
- \_\_\_ Have the people you named as your health care representatives sign Part E (on page 7).

### Use this checklist to properly complete Part C:

- \_\_\_ Complete Part C (beginning on page 4).
- \_\_\_ Sign and date the bottom of page 6.
- \_\_\_ Have two witnesses sign Part D (on page 7).

### Initial next to the instructions you want followed:

- \_\_\_ **HOSPICE CARE.** My health care representative may authorize and arrange for hospice care on my behalf. Note: If you have a general durable power of attorney, consider adding to it the following: "I direct my agent to pay for hospice care arranged for and authorized by me or my health care representative."
- \_\_\_ **HIRING AND DISCHARGE OF DOCTORS.** I authorize my health care representative to hire and discharge doctors and other health care personnel on my behalf.
- \_\_\_ **MEDICAL RECORDS.** My health care representative may review my medical records, and may authorize their release to those persons whom my health care representative designates. I authorize my physicians and other health care professionals to discuss my medical condition with my health care representative and with others whom my health care representative designates.
- \_\_\_ **COPIES OF ADVANCE DIRECTIVE.** A photographic or facsimile copy of this advance directive shall have the same force and effect as the original.
- \_\_\_ **VISITORS.** I direct that \_\_\_\_\_ be permitted to visit me in any hospital or other care facility to the same extent that my closest relatives would be permitted to visit me. Note: If you choose this, be sure that you give the named person a copy of your completed Advance Directive.
- \_\_\_ **PAIN CONTROL.** If I am terminally ill or otherwise close to death, I desire to be kept pain-free, even if pain medication might make me less responsive or impair my respiratory or other bodily functions.
- \_\_\_ **HOME DEATH.** I wish to die at home, and not in a hospital or other care facility. When, in the opinion of a licensed physician I am likely to die within six months, I wish to be transferred to my home. I wish to be transferred to my home even if there is a risk that the transfer itself may accelerate my time of death. However, if my dying at home becomes too much of a burden to my family or others living with me, my health care representative may arrange for me to receive care elsewhere.

*Designed by attorney Kristianne Cox, Portland, Oregon, 503.252.0246.  
This document has no copyright and may be reproduced.*

# Elder Law Section sponsors "unCLE"

By Mark M. Williams, UnCLE Program Chair

The Elder Law Section is sponsoring a unique program to give elder law practitioners the opportunity to get together for a day-long session of brainstorming, networking, and the exchange of ideas and forms. The sessions will be held in small group discussion formats with topics moderated by elder law attorneys willing to share their experiences. There will be no formal speakers, but there will be time to question and learn from a variety of peers. The program is modeled on the highly successful NAELA "UnProgram," which a number of Oregon practitioners have attended and praised.



**Attorneys helping attorneys**

Do not miss this chance to mix and mingle with your peers in the elder law community and discuss substantive issues as well as nuts and bolts practice issues. Attendance is limited to 75, so register early. Registration for this inaugural event is \$65.00. (Add \$25 for Section dues if you are not already a member.)

The program will be held Saturday, May 3, 2003, from 8:00 a.m. to 5:00 p.m., including breakfast and lunch, at the Valley River Inn, 1000 Valley River Way, Eugene, Oregon. You may want to consider staying overnight before and/or after the program to gain additional time for the exchange of ideas in an informal social setting. Room registration is available at the Valley River Inn for the special conference rate of \$62 per night for one/\$82 for double occupancy, by calling Valley River Inn at 800.543.8266.

To register for the unCLE, use the registration form below or contact the Oregon State Bar order desk at 800.452.8260x413 or 503.684.7413.

## Elder Law "unCLE" Program *Saturday, May 3, 2003*

Name	Bar #	
Firm Name		
Phone	Fax	E-mail
Address		
City	State	Zip Code

**PROGRAM REGISTRATION:**

*Registrants must be Elder Law section members.  
Enrollment limited to 75 registrants.*

- \$65 Registration ..... \$ \_\_\_\_\_
- \$25 Elder Law Section Membership Dues ..... \$ \_\_\_\_\_

TOTAL REGISTRATION FEES (SEL03) (61-4565).... \$ \_\_\_\_\_

**THREE WAYS TO REGISTER OR ORDER:**

*Registrations and orders will not be processed without payment.*

1. **MAIL with check:** Oregon State Bar, Order Desk, PO Box 1689, Lake Oswego, OR 97035
2. **FAX with VISA or MasterCard number:** 503-968-4456
3. **PHONE:** 503-684-7413, or toll-free in Oregon at 1-800-452-8260, ext. 413

**PAYMENT OPTIONS:**

- Check Enclosed: Payable to Oregon State Bar
- Credit Card (VISA or MasterCard only)

**\*\* All information below required when paying by credit card. \*\***

\_\_\_\_\_  
Credit Card Number

\_\_\_\_\_  
Expiration Date

\_\_\_\_\_  
Name on Credit Card (please print)

\_\_\_\_\_  
First Line of Street Address

\_\_\_\_\_  
Zip Code

\_\_\_\_\_  
Authorized Signature

## Update from the Elder Law Section Agency and Professional Relations Subcommittee

On February 14, 2003, Cinda Conroyd, Jane Patterson, Kristianne Cox, Ruth Simonis, and Sam Friedenberg, met with DHS's Roy Fredericks, Elizabeth Lopez, Jeff Miller, and Nancy Talbot to discuss Medicaid issues and the state of the Oregon budget:

On March 4, Governor Kulongoski signed legislation to rebalance the state's 2001-2003 budget, which includes restoration of a number of cuts planned or already taken by DHS. These restorations get apply through June 30. There is no guarantee that these services will continue into the next biennium.

Ms. Lopez noted that the state is trying to hold onto the existing foundation of our long term care reimbursement system. State administrators considered dropping eligibility to 100% of SSI, but rejected that option based on unexpected costs that would have been shifted to the state. The state does not want to move away from its waived program. The hope is that enough of the program is left so that if additional funds are received in the future the state can increase the service priorities for which it reimburses. However, the agency's feeling is that the current system of serving all priorities is not likely to occur again.

### Effect of state budget cuts

Here is a summary of the state of the various programs as of press date:

1. General Assistance was eliminated as of Feb. 1, 2003. Of the 2,700 projected closures, 2,373 were actually closed. The agency is working to find alternative resources for those affected.
2. The Medically Needy program was eliminated as of Feb. 1, 2003. The budget bill will restore coverage for some former Medically Needy clients. Coverage will be limited to necessary anti-viral drugs for people with HIV/AIDS and anti-rejection drugs for people who have had transplants. Limiting the program to this small population means that DHS will not be able to use Medicaid funds and will need to set up a state General Funded program instead. The new Medically Needy pro-

gram is expected to be operative about April 1.

3. Medicaid OSIPM Clients with Service Priorities 15-17 were also closed as of Feb. 1, 2003. Of the 4,100 projected cases approximately 3,300 were closed. The agency felt that it undertook a diligent effort to reassess clients who felt their case should not be closed.
4. Medicaid OSIPM Clients with Service Priorities 10-14 were to receive notices for termination as of April 30, 2003. The new budget legislation restores services to clients in levels 10-11. Clients in levels 12-14 will lose benefits on April 1 as scheduled. However, funding for Service Priorities 10-17 is not in the governor's proposed budget for the next biennium, which funds only up to Service Priority 9.

The agency is working to safely transition clients to safe environments. There are some dollars available to find apartments, modify homes, etc. The state is training intake workers on transition issues.

5. On March 1, DHS eliminated prescription-drug benefits to the 100,000 or so clients in the Oregon Health Plan "Standard" program. The new budget restores that benefit, although there will be some delay in reinstating the prescription coverage to these clients, due to the need to reprogram DHS computers. Information about the OHP changes is available online at [www.dhs.state.or.us/healthplan/rxrestored.html](http://www.dhs.state.or.us/healthplan/rxrestored.html).

### Client Assessment/Planning Subsystem

At the February subcommittee meeting, there was extensive discussion about the Client Assessment/Planning Subsystem (CA/PS) and whether it is a tool to capture functional activities as described in the Oregon Administrative Rules. The critical issue is whether the rules that define and determine service priorities prevail over a particular assessment model such as a CA/PS form. If a person is found to be at one level when reviewing the rules, but a different level when the form is completed and the information reviewed by the computer algorithm, technically the rules should prevail. Our subcommittee will be doing some research in this area, and will look into a CLE presentation on functional assessments.

## Courts closed on Fridays

Oregon Chief Justice Wallace F. Carson has ordered all of the state court offices (circuit, appellate, and tax) closed to the public on Fridays from March 1 through June 30, 2003, due to budget shortfalls. To help decrease the workload, courts will not hold hearings on small claims cases and nonperson misdemeanor cases during that time period. Some courts have decreased the hours when telephones are answered or when court files are available. The staff cutbacks are expected to result in delays in processing documents and scheduling hearings.

## Update on legal challenges to state budget cuts

By Leslie Kay, Regional Director, Legal Aid Services of Oregon, Multnomah County

### OREGON HEALTH PLAN STANDARD BENEFIT CUTS

*Mills v. DHS*

About 100,000 people would in March lose mental-health services, drug and alcohol treatment, prescription drug coverage and durable medical equipment such as oxygen tanks under a cut made last November by the Legislative Emergency Board—a panel of lawmakers that makes budget decisions when the Legislature isn't in session.

**Legal argument:** The E-board exceeded its authority to change legislative policy.

**Status:** This case was filed in Multnomah County Circuit Court by the Oregon Advocacy Center on behalf of the class and Michael Greene of Rosenthal and Greene, PC on behalf of the American Diabetes Association. After hearing cross motions for summary judgment Judge Jean Kerr Maurer ruled for the State of Oregon on February 12, 2003. Petitioners will not be pursuing their appeal. The Legislature has restored the prescription benefits for OHP standard recipients for the remainder of the 2001-03 biennium.

### OREGON HEALTH PLAN STANDARD PREMIUM PAYMENTS

*Spry v. Thompson*

A slimmer version called OHP Standard sought to limit state costs by imposing premiums and co-payments and fewer benefits primarily for childless, able-bodied adults.

**Legal argument:** The federal and state government lacked authority to waive federal statutory protections against charging poor people too much for medical premiums.

**Status:** Lawsuit filed in federal court by the Oregon Law Center.

### MEDICALLY NEEDY PROGRAM ELIMINATION

*Wheaton v. Kulongoski*

About 8,000 elderly and disabled people with incomes too high for the Oregon Health Plan had help with Rx coverage until the program's elimination.

**Legal argument:** The cut ordered by DHS exceeds authority to eliminate a program created by the Legislature.

**Status:** Lawsuit filed in Multnomah County Circuit Court by Legal Aid Services of Oregon, Oregon Law Center, and Steven Goldberg of Goldberg Mechanic Stuart and Gibson, LLP. Plaintiffs motion for TRO denied by Judge Henry Kantor, a hearing on a preliminary injunction pending and the State's Motion for Summary Judgment is scheduled for March 20, 2003.

### GENERAL ASSISTANCE PROGRAM ELIMINATION

*Roe v. Kulongoski*

The program provides checks to poor people with disabilities while they await approval for Social Security benefits.

**Legal argument:** The cut ordered by then Governor Kitzhaber exceeded executive authority to eliminate a program created by the Legislature.

**Status:** Lawsuit filed in Multnomah County Circuit Court by Legal Aid Services of Oregon and the Oregon Law Center. Motion for TRO denied by Judge John A. Whitmayer and a subsequent Motion to Dismiss was granted by Judge Whitmayer.

### GROUP HOMES FOR THE MENTALLY ILL CLOSURES

*Henderson v. Kitzhaber*

Ninety-six residents of two Portland centers would lose funding.

**Legal argument:** The cuts amount to an unlawful eviction because the state had accepted responsibility for the residents' care.

**Status:** Lawsuit filed in Multnomah County Circuit Court by Oregon Advocacy Center, and a group of private attorneys proceeding Pro Bono. The State of Oregon has backed down and committed to continue funding through the end of the biennium.

### DEVELOPMENTAL DISABILITY SERVICES CUTS

*Staley*

About 1,800 adults with developmental disabilities would lose services so they can live at home and function in their communities. This case was originally brought by the Oregon Advocacy Center and Legal Aid Services of Oregon.

**Legal argument:** A federal court settlement requires the state to provide these services; the state would be breaking its legal obligation if it pulled back funding.

**Status:** Negotiations have been under way to avoid a lawsuit.

### LONG-TERM CARE FOR SENIORS AND DISABLED PEOPLE CUTBACKS

*Watson v. Thorn*

More than 9,000 people whose impairments rated on a scale from 1 to 17 are scheduled to lose assistance; those assessed at 15 to 17 were cut off February 1, 2003 and those at 12 to 14 are to lose services April 1.

**Legal argument:** Advocacy groups are encouraging people to seek new assessments in case their impairments are severe enough to deserve reclassification and qualify for services. Those whose assessment levels make them targets for cuts can request administrative hearings.

**Status:** Lawsuit has been filed in Federal Court based on violations of Medicaid Law by Legal Aid Services of Oregon, Lane County Law and Advocacy Center, the Oregon Law Center, and the National Senior Citizens Law Center.

## Elder Law Section gains new members in 2003

The Elder Law Section now has 475 members. The Section has active continuing legal education, public education, newsletter, pro bono, computer and technology, agency and professional relations, and legislative subcommittees. Section members who want to work on a subcommittee are invited to contact anyone on the Executive Committee.

We thank the many returning Section members for their support, and extend a special welcome to the following new members:

Donald K. Armstrong, Eugene  
 F. Blair Batson, Portland  
 Nadine Toms Beckel, Tigard  
 John H. Beckfield, Salem  
 Lisa N. Bertalan, Bend  
 David M. Blair, West Linn  
 Susan B Bock, Eugene  
 Marianne Elizabeth Brams, Portland  
 Jason Brouhard, Grants Pass  
 Cheryl Ann Buckley, Eugene  
 Joel R. Burks, Salem  
 Bonnie Burman, Bend  
 Raymond Churba, Medford  
 Jane E. Ellis, Portland  
 Cyrus W. Field IV, Portland  
 Mara Lue Fields, Oregon City  
 John Fisher, Eugene  
 Julia Maureen Hagan, Portland  
 Thomas P. Harbolt, Beaverton  
 Leslie J. Harris, Eugene  
 Kennedy Hawkins, Salem  
 Rodney K. Hopkinson, Portland  
 John A. Hudson, Eugene  
 Thomas Johnson, Portland  
 Benjamin S. Johnston, Portland

Margy J. Lampkin, Oregon City  
 Steve Leventhal, Bend  
 Kenyon E. Luce, Tacoma  
 John E. McCormick, Portland  
 Scott R. Nannini, Lake Oswego  
 Edward C. Olson, Wilsonville  
 Chris O'Neill, Portland  
 Orrin R. Onken, Portland  
 Robert A. Payne, McMinnville  
 Rebecca Peterson, Grants Pass  
 Deborah M. Phillips, Hood River  
 Alice M. Plymell, Eugene  
 Robert Louis Salisbury, St Helens  
 Michael K. Shufeldt, Portland  
 Kari I Smith Haight, Portland  
 Stephen L. Tabor, Sublimity  
 Roslyn Lipton Tucker, Portland  
 Elisabeth S Twist, Portland  
 Judith H. Uherbelau, Ashland  
 Larry Voth, Portland  
 Earle V. White, Wilsonville  
 Sarah J. Wolf, Roseburg  
 Jerry R. Woods, Lake Oswego  
 Tyree Paul Zander, Troutdale

## Member News

Shirley A. Bass has moved her office to River Forum, Suite 500, 4380 S.W. Macadam Ave., Portland, OR 97239-6412.  
 Phone: 503.241.9455

Valerie Vollmar is the coauthor of the law-school casebook published January 2003 by West. (*An Introduction to Trusts and Estates*, Vollmar, Hess & Whitman).

Katherine M. Zelko has a new address: River Forum, Suite 500, 4380 S.W. Macadam Ave., Portland, OR 97239-6412.  
 Phone: 503.223.2321

### **Volunteer Attorneys Needed to Draft Income Cap Trusts to Establish Medicaid Eligibility for Individuals in Long Term Care Settings**

Training and mentoring available.

Contact Leslie Kay  
 Elder Law Section Pro Bono Committee  
 503.224.4086

## Resources for elder law attorneys

### Events

#### Web Seminar:

#### Medicare Home Health Coverage as a Long-Term Care Benefit

Broadcast Live, April 3, 2003, 2:00 p.m. EST

Available thereafter "on demand" until June 2, 2003.

Register via the link on the Medicare Advocacy's Web site:

[www.medicareadvocacy.org](http://www.medicareadvocacy.org)

For more information contact the Center for Medicare Advocacy's Administrator, Carolyn Boyle at 860.456.7790.

#### Health Plans, HIPAA and COBRA Update (ALI-ABA)

Tuesday, April 22, 2003

12:00 p.m. to 4:00 p.m.

OLI/Gus. J. Solomon Courthouse, Portland

Web site: [www.lclark.edu/org/oli/03\\_04\\_22.html](http://www.lclark.edu/org/oli/03_04_22.html)

CALL TO REGISTER: 503.768.6850 or 800.222.8213

#### Multnomah County Probate and Guardianship Update

Multnomah Bar Association

Thursday, April 24, 2003

3:00 to 5:00 p.m.

World Trade Center Auditorium, Portland

Online registration: [www.mbabar.org/mbaForms/cle-reg.html](http://www.mbabar.org/mbaForms/cle-reg.html)

#### Elder Law Section "unCLE"

Saturday, May 3, 2003

8:00 a.m. to 5:00 p.m.

Valley River Inn

1000 Valley River Way, Eugene

See page 11 for details

#### NAELA 2003 Advanced Practitioner Pre-session Program

May 14, 2003

Fontainebleau Hilton Resort, Miami Beach, FL

#### "MIAMI AdVICE"

#### 2003 NAELA Symposium

May 15 to 18, 2003

Fontainebleau Hilton Resort, Miami Beach, FL

Web site: [www.naela.com/Conference/ConfDetail.cfm?ConfID=15](http://www.naela.com/Conference/ConfDetail.cfm?ConfID=15)

NAELA phone: 520.881-4005

#### The Basics of Probate (Oregon Law Institute)

June 6, 2003

8:30 a.m. to 12:00 noon

Oregon Convention Center, Portland

Call to register: 503.768.6850 or 800.222.8213

#### Probate Problems and Solutions (Oregon Law Institute)

June 6, 2003

1:15 to 4:15 p.m.

Oregon Convention Center, Portland

Call to register: 503.768.6850 or 800.222.8213

#### Annual Spring Estate Planning Practice Update (ALI-ABA)

Thursday, June 12, 2003

12:00 noon to 4:00 p.m.

OLI/Gus. J. Solomon Courthouse, Portland

Web Site:

[www.lclark.edu/org/oli/03\\_06\\_12.html](http://www.lclark.edu/org/oli/03_06_12.html)

#### National Alzheimer's Disease Education Conference

July 20 to 23, 2003

Chicago

Web site: [www.alz.org/AboutUs/](http://www.alz.org/AboutUs/WhatWeDo/EduConf.htm)

[WhatWeDo/EduConf.htm](http://www.alz.org/AboutUs/WhatWeDo/EduConf.htm)

#### Fourth National Aging and Law Conference

October 15 to 18, 2003

Arlington, Virginia

#### 2003 NAELA Advanced Elder Law Institute

November 13 to 16, 2003

Dallas, Texas

#### Monthly Elder Law Discussion Group

Meets second Thursday: Legal Aid Services, Downtown Portland

Details: Cathy Keenan 503.224.4086

#### Elder Law Internet Discussion List

All Section members who supply an e-mail address to the Oregon State Bar are subscribed to the Elder Law Section's electronic mail distribution list. The purpose of the distribution list is to facilitate communication among members of the Section.

Send a message to all members of the Elder Law Section distribution list by addressing it to: [eldlaw@lists.osbar.org](mailto:eldlaw@lists.osbar.org).

Replies are directed by default to the sender of the message *only*. If you wish to send a reply to the entire list, you must change the address to: [eldlaw@lists.osbar.org](mailto:eldlaw@lists.osbar.org).

Include a subject line in messages.

Be polite. Do not post any defamatory, abusive, profane, threatening, offensive, or illegal materials.

Sign your messages with your full name, firm name, and appropriate contact information. Email addresses alone do not provide the necessary identification.

Do not send attachments.

# Elder Law Section "unCLE"

## Attorneys helping attorneys



**Saturday, May 3, 2003**  
**8:00 a.m. to 5:00 p.m.**  
**Valley River Inn, 1000 Valley River Way**  
**Eugene, Oregon**

- **Brainstorming**
- **Networking**
- **Forms exchange**
- **No formal speakers**
- **Small group discussion format**

See page 11 for details

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## Newsletter Board

The *Elder Law Newsletter* is published quarterly by the Oregon State Bar's Elder Law Section, Jennifer Wright, Chair. Statements of fact are the responsibility of the authors, and the opinions expressed do not imply endorsement by the Section.

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