



# NEWSLETTER ELDER LAW

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## Courts look at annuities & Medicaid eligibility

By Cynthia L. Barrett

**E**lder law attorneys around the country are carefully watching recent case law developments restricting Medicaid-driven use of annuities. Since The Omnibus Budget Reconciliation Act of 1993, many states permitted a Medicaid applicant or community spouse to transfer unprotected assets above the community spouse resource allowance (CSRA) to commercial annuities or to spousal annuitized trusts. These convert spend-down assets to a stream of income that is not counted when Medicaid is applied for.

Buying commercial annuities and transferring assets into annuitized trusts are techniques used since 1994, based on the description of transfers between spouses "for the sole benefit" of a community spouse in Health Care Financing Administration (HCFA) Transmittal 64.3258.11 and 42 U.S.C. 1396p(c)(2)(B)(i). Transmittal 64 acknowledged that spouses sought "to shelter assets so that individuals purchasing them can become eligible for Medicaid" HCFA Transmittal 64.3258.9(B), and set out the life expectancy tables to be used to determine whether the annuity was disqualifying.

However, this Medicaid planning technique attracted attention from the states, and recent reported cases from Ohio, Pennsylvania and New Jersey reject the conversion of countable assets to commercial annuities or spousal trusts for Medicaid eligibility.

An April 1998 letter from HCFA provided support to the states' position. HCFA representative Robert Streimer issued a letter to a private attorney, distinguishing between the community spouse annuitized trust (CSAT) and a private annuity, and opining that the corpus of the CSAT was a countable resource. Not surprisingly, the New Jersey federal court and the Ohio appellate court cited the 1998 Streimer letter in support of their anti-CSAT decisions.<sup>1</sup>

Ohio, which never permitted spousal annuitized trusts for excess assets, successfully defended its position in an intermediate state appellate court.<sup>2</sup>

New Jersey, having permitted CSATs for five years, changed policy in 1999, and the federal court in preliminary motions rejected the plaintiff's challenge in a lawsuit pending as this article was written.<sup>3</sup>

The most troubling decision, however, was from Pennsylvania. Having disallowed CSATs in 1999,<sup>4</sup> Pennsylvania went far beyond the Streimer letter to rule that commercial annuities are countable resources.<sup>5</sup>

### Annuitized trusts disqualifying in Ohio

In *McNamara v. Ohio Department of Human Services*,<sup>6</sup> the Ohio Court of Appeals affirmed the denial of benefits for Rheba McNamara, a Medicaid applicant. In April, 1998, her husband transferred \$221,000 of the couple's assets into a typical irrevocable spousal annuity trust, with payout of all corpus and income to him over five years (well within the HCFA life expectancy tables). The state Medicaid agency denied Rheba McNamara's long-term care Medicaid application, claiming the transfer was for inadequate consideration.

The administrative hearing officer affirmed the state's Medicaid denial, and Mrs. McNamara

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appealed to the trial court. The trial court affirmed the administrative officer and state, for two reasons:

- (1) the transfer was improper because the "sole benefit" requirement was not met. The trust provided that the remainder beneficiaries were the couple's two children, and in the court's analysis that meant the sole-benefit requirement of 42 U.S.C. 1396p(c)(2)(B)(i) was not met.
- (2) the annuitized assets were available to the McNamaras, and because the annuity assets exceeded Mr. McNamara's CSRA, Mrs. McNamara had not yet spent down.

The Ohio Court of Appeals reached the same result as the trial court, but used different reasoning. The court distinguished the CSAT from a commercial annuity, finding the 04/16/98 Streimer letter persuasive in distinguishing the annuitized trust from a commercial annuity purchased on the open market like a commodity. The Ohio Court of Appeals reviewed both sides' arguments about whether the trust met the "sole benefit" test, gave "some deference to Transmittal 64," but then based its decision disallowing the trust on the supercession clause, 42 U.S.C. 1396r-5(a)(1):

Accordingly, we hold that pursuant to the supercession clause of Section 1396r-5(a)(1), the amount of funds that one person can transfer to his or her spouse under Section 1396p(c)(2)(b) is limited to the maximum amounts the community spouse may retain under CSRA provision in Section 1396r-5(f).

NAELA member Michael Millonig has long been interested in the annuitized trust technique, which had not been tried in Ohio, and pursued this test case. He told me that this appellate court decision will not be appealed, but that there was some interest in a federal court challenge to Ohio's interpretation of 42 U.S.C. 1396 and HCFA Transmittal 64.

### New Jersey restrictions on spousal annuitized trusts upheld at trial

How friendly will the federal courts be in challenges to anti-annuity policies of the states? New Jersey attorneys have mounted two challenges to New Jersey's restrictive policies in recent years, with little success to date.

Since the Third Circuit upheld New Jersey's income first rule in *Cleary v. Waldman*, 167 F 3d 801 (3rd Cir 1999), it is no surprise, perhaps, that in

*Johnson v. Guhl*, 91 F Supp 2d 754 (D.N.J. 2000) the federal trial court, while ruling on preliminary motions, upheld New Jersey's rejection of annuitized trusts.

From 1994 through mid-1999, New Jersey permitted many community spouse annuitized trusts written to meet Transmittal 64 guidelines. However, in mid-July 1999 the New Jersey Medicaid agency changed policy, requiring that eligibility workers consider all assets placed in the CSAT as available resources. When New Jersey changed its law, it offered to permit those spouses with pending applications to convert the SAT to a commercial annuity, naming the state as remainder beneficiary.<sup>7</sup>

Applicants for Medicaid and prospective applicants sued New Jersey in federal court on several theories, including due process and equitable estoppel. At the reported preliminary motion stage, Defendant's motion to dismiss was granted as to the due process and equal protection claims, but denied for the other claims. Plaintiff's motion for preliminary injunction was also denied, as the court ruled plaintiffs did not show likelihood of irreparable injury. The court observed, but did not rule, that New Jersey could not require that it be the first named remainder beneficiary of the CSAT or its replacement commercial annuity, because estate recovery actions for the Medicaid recipient's claim are not permitted against the community spouse's estate.<sup>8</sup> The court also observed that the State was willing to provide hardship hearings to those adversely affected by the change of policy.<sup>9</sup>

NAELA members Shirley Whitenack and Donald McHugh, CELA, are still moving forward on the merits, and in October filed a dispositive motion on several issues, including whether Medicaid could deny the applications of the plaintiffs retroactively.

Will other states be encouraged by the New Jersey restrictions on CSATs, and seek to change their heretofore-favorable CSAT policies? State courts are likely to be persuaded by the New Jersey federal district court decisions.<sup>10</sup>

In states where the spousal annuitized or sole-benefit trust technique is protected by administrative rules (e.g., Washington state administrative code) clients using the technique prior to Medicaid application are somewhat protected. But administrative

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## Recent cases affecting annuities...continued from page 2

codes can be changed, or reinterpreted, as in New Jersey.

### Pennsylvania restrictions on spousal annuity trusts and commercial annuities upheld

In 1999, the Pennsylvania appellate court (Court of Common Pleas) upheld the state refusal to permit spousal annuitized trusts for the community spouse, in *Bird v. Pennsylvania Department of Public Welfare*, 731 A.2d 660 (Pa.Comm.w. 06/03/1999). The Pennsylvania appellate court extended the *Bird* analysis to reject commercial annuities in *Dempsey v. Pennsylvania Department of Public Welfare* No 2171 CD 1999 (Pa Commw 05/15/2000), where a spouse purchased irrevocable five year annuities with \$375,000 just prior to the other spouse applying for medical assistance.

The Pennsylvania court decisions are grounded in Pennsylvania statutory requirements that the applicant for Medicaid identify third party resources and "that these be used to the fullest extent possible before payment is made by MA."<sup>11</sup> The Department of Public Welfare determined that Mr. Dempsey had not met his burden to rebut the presumption that the purchase of the commercial annuities was an impermissible Medicaid-driven transfer, and the court agreed:

It was the Dempseys' obligation to rebut this presumption at the hearing. Mr. Dempsey testified that he made the transactions as an investment strategy to avoid the volatility of the market, to insure a fixed income for him, and to take advantage of certain tax benefits. Mr. Dempsey did not, however, testify that he could only achieve these goals by rendering the assets unavailable for use towards his wife's nursing home care. That is, Mr. Dempsey did not set forth evidence that circumstances required the placement of substantial assets in irrevocable instruments. Suffice it to say, the Medicaid laws and the MCCA in particular do not provide that otherwise available assets may be rendered unavailable by placing them in the service of investment strategies and tax benefits. Further, Mr. Dempsey failed to even provide evidence regarding the transactions themselves. No agreement or instrument detailing

the full terms of the annuities was introduced into evidence. Therefore, on the most fundamental level, Mr. Dempsey failed to establish that the assets were exchanged for fair market value after an arms-length transaction.<sup>12</sup>

Thus, the Pennsylvania courts have shut the door to Medicaid applicants who purchase Transmittal 64-authorized commercial annuities, or who create a spousal annuity trust for the sole benefit of the community spouse during his or her lifetime. The Pennsylvania Medicaid agency considers the transfer disqualifying, triggering a period of ineligibility.

### Footnotes

1. *Johnson v. Guhl*, 91 F Supp 2d 754, 764; *McNamara v. Ohio Dept. of Human Services*, 2000 Ohio App LEXIS 3477, 3488
2. *McNamara v. Ohio Department of Human Services*, 2000 Ohio App LEXIS 3477 (Ohio Ct. App 2nd Dist 2000)
3. *Johnson v. Guhl*, 91 F Supp 2d 754 (D.N.J. 2000)
4. *Bird v. Pennsylvania Department of Public Welfare*, 731 A.2d 660 (Pa.Comm.w. 06/03/1999)
5. *Dempsey v. Pennsylvania Department of Public Welfare* No 2171 CD 1999 (Pa Commw 05/15/2000)
6. *McNamara v. Ohio Department of Human Services*, 2000 Ohio App LEXIS at 3487 (Ohio Ct. App 2nd Dist 2000)
7. *Johnson v. Guhl*, 91 F Supp 2d at 764-765
8. *Johnson v. Guhl*, 91 F. Supp 2d at 780-781
9. *Johnson v. Guhl* 91 F. Supp at 776-777
10. The Pennsylvania appeals court cited the trial court decision in *Cleary v. Waldman*, 959 F Supp 222 (DNJ 1997); *Dempsey v. Pennsylvania Department of Public Welfare* No 2171 CD at p. 6 1999 (Pa Commw 05/15/2000); and the Ohio appellate court cited both *Cleary v. Waldman*, 167 F 3rd 801 (3rd Cir 1999) and *Johnson v. Guhl* in its decision. *McNamara v. Ohio Department of Human Services*, 2000 Ohio App LEXIS 3487-88 (Ohio Ct. App 2nd Dist 2000)
11. *Dempsey v. Pennsylvania Department of Public Welfare*, No. 2171 CD 1999 at p. 8
12. *Dempsey v. Pennsylvania Department of Public Welfare*, No. 2171 CD 1999 at p.9-10

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Cynthia Barrett, CELA, is a Fellow of the National Academy of Elder Law Attorneys, and served as President of the Multnomah Bar Association. Author of many articles on elder law subjects, she helped develop national curricula to train certified elder law attorneys.



## Program for north coast elders off to a good start

**L**ANCE (Legal Advice for North Coast Elders) is going very well, according to Leslea S. Smith, Regional Director, Legal

Aid Services of Oregon (LASO). The toll-free number (877.955.2623) became operational in May. As of early September, LANCE had served approximately 34 clients—12 clients by referral to private attorneys. Approximately 13 clients had consumer problems, and 13 had questions about wills or estates. Other legal problems presented include family law issues, Social Security problems, housing issues, employment issues, guardianship questions, and real estate issues.

About two-thirds of the people who called during the first months of operation were from Clatsop County. The clients were about equally divided between people in their sixties and people in their seventies, but five were in their eighties. About two-thirds of the callers were women.

Ms. Smith worked with Stephanie Zuercher of North Coast Senior Services (NCSS) and Holly Robinson, formerly of the Oregon Senior and Disabled Services Division, to set up the program. LANCE serves two rural coastal counties, Clatsop County and Tillamook County, and is funded by the Partnerships in Law and Aging Program.

Members of the Elder Law Section are actively involved with LANCE. Ms. Robinson was instrumental in publicizing LANCE to Bar members and recruiting volunteer attorneys. About twelve attorneys have volunteered, including five from LANCE's service area.

At North Coast Senior Services, staff person Connie Kelsey answers the phone lines, fills out a LANCE intake form which includes a brief description of the legal problem, and faxes the form to Ms. Smith at LASO.

Says Ms. Smith, "I have asked other advocates at LASO to call a few clients, but I have made most of the calls. I enjoy talking with the clients, giving what advice I can, and making referrals. It has been rewarding, for example, to calm the fears of people who thought they could go to jail for bad debts, and to give people advice about dealing with creditors. It has also been heartbreaking to hear seniors describe how increasing medication costs have made them unable to pay their bills. They are often humiliated by their plight. They highly value their

independence and their good credit records, and they see it slipping away. Although I cannot solve every problem, I can almost always give some information that helps, and I hope simply being a compassionate listener helps."

One problem she has identified with the service model is that the client has to explain his or her problem two or three times—two times if LASO handles the case, and three times if LASO refers the case to a volunteer. "NCSS provides me with a summary of the case, and I try to use that to avoid unnecessary repetition by the client, but the client usually explains the story all over again. While I see this as a weakness of the service model, I have not received any complaints from clients. It may be that clients are happy to have two or three people interested in their legal problem."

To volunteer for LANCE, call Ms. Smith at 503.648.7163.

## Some people to know

**Rick Mills** is the new legal services developer for the Senior and Disabled Services Division. He is located in SDSA's central office in Salem.

Mills, a native of Milwaukee, Wisconsin, is a graduate of Willamette University's College of Law, and was in private practice in Newberg for 15 years. Most recently, he worked for the estate and administrative services at SDSA, where he was involved in the agency's Y2K program.

Mills is now the person to whom notice of spousal support petitions should be sent. His address is 500 Summer St. NE #E10; Salem, OR 97301-1076. Telephone: 503.945.8999. Fax: 503.373.7902. E-mail: rick.mills@state.or.us.



**Susan Evans Grabe** is the new Oregon State Bar staff liaison to the Elder Law Section.

In her role as liaison, Ms. Grabe is the Section's resource person and information source on Bar programs, services, and policies. She also serves as Public Affairs Attorney for the Bar and is heavily involved with OSB's 2001 legislative proposals.



# Your client may be eligible for veterans' benefits

By Conrad G. Hutterli, Portland, and Shirley A. Bass, Portland

The private bar has traditionally abjured any involvement with veterans' benefits due to the Civil War-era prohibition against "fee gouging," which meant charging veterans more than \$10 for representation. Although this prohibition has been ameliorated by the Veterans' Judicial Review,<sup>1</sup> many attorneys routinely refer clients to the various veterans' service organizations to provide basic assistance with benefits. However, familiarizing oneself with these benefits can only increase the value of one's representation.

The elder law attorney in particular is likely to find his or her client potentially eligible for one or more of a variety of veterans' benefits. Nearly nine million veterans are age 65 and older—34 to 38% of the overall veteran population. Oregon has one of the nation's highest per-capita veteran populations, estimated at 370,800. This article highlights some of the more common services and benefits available to the senior veteran client and his or her family.

## Oregon property tax exemption

A disabled veteran or the surviving spouse of a veteran may be entitled to exempt from property taxes \$9,020 to \$12,020 (1999 figures) of the assessed value of his or her residence. (ORS 307.250—ORS 307.300) The exempt amount is increased by 3% each year.

Disabled war veterans must be certified by the federal Veterans Administration (VA) as having a disability and could face a means test. The surviving spouse of a veteran is eligible if not remarried. The qualifying veteran or surviving spouse must own and live in the home. Buyers with recorded contracts and life estate holders are considered owners. Temporary absences due to vacation, travel, or illness do not disqualify the applicant. *Caveat:* Placing the residence in joint tenancy with the surviving spouse and a child is a disqualifying event.

The veterans' exemption is not automatic. Application must be made on or before April 1 of the assessment year. Application forms are at the county assessor's office. For further information call the client's local county tax assessor's office or 800.356.4222.

## Health care programs

The 132 nursing home care units based at federal Veterans Administration medical centers provide skilled nursing care and related medical or psychosocial services. Oregon has two VA medical centers—one in Portland and one in Roseburg—and three clinics located in Bend, Bandon, and Eugene. Veterans who have been hospitalized in a VA facility for treatment, primarily for a service-connected condition, may be placed, at VA expense, in community facilities. In 1998 the VA

contracted with 3,500 community nursing homes to provide care to more than 28,900 veterans.

Through the State Nursing Home Program, the VA contributes to the construction costs of nursing homes and provides partial per diem grant payments for veterans placed in a state home. In 1997 Oregon opened its first nursing home in The Dalles (phone: 800.846.8460). A second home is in the development stage. The homes are developed and administered by the Oregon Department of Veterans' Affairs (ODVA). This program provides needed health care for a rapidly aging segment of the state's population and offers an opportunity for annual savings though Medicaid cost avoidance. For additional information on the Oregon Veterans' Home Program call 503.373.2386 or

800.828.8801. Note that every county in the state except Marion, Polk and Wheeler has an Oregon County Veterans' Service Office. The number for Multnomah County is 503.248.5480, ext. 24835.

In addition to nursing home care, the VA provides residential rehabilitation and health maintenance centers for veterans who do not require hospital or nursing care but are unable to live independently due to medical or psychiatric disabilities. They receive necessary medical and psychiatric care on an outpatient basis from the host hospital while residing in a structured, therapeutic, homelike environment.

The VA's non-institutional long-term care programs include hospital-based primary care, adult day health care, homemaker/home health aide services, and com-

**Practice tip:** The VA does not retain a veteran's military service records. They are kept by the National Personnel Records Center, which is under the jurisdiction of the National Archives and Records Administration.

To request military service records, Complete Standard Form 180, Request Pertaining to Military Records. Note that it may take up to six months for a reply.

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## Veterans' benefits...continued from page 5

munity residential care programs.

Finally, the VA maintains a hospice care program, respite care, and 110 geriatric evaluation management (GEM) programs.

### Pension benefits

Permanently and totally disabled veterans with low incomes may be eligible for monetary support if they have 90 days or more of active military service, one day of which was during a period of war. In addition, a veteran who is a patient in a nursing home, is otherwise determined by VA to be in need of the regular aid and attendance of another person, or is permanently housebound, may be entitled to higher income limitations or additional benefits, depending on the type of pension received. This benefit can be paid to veterans, their spouses, surviving spouses, and parents. It is paid in all compensation, DIC (Dependency and Indemnity Compensation which is paid to a surviving spouse, child, or parent of a veteran because of a service-connected death of a veteran), and pension programs. For eligibility criteria, see 38 CFR 3.350 *et seq.*

### Death pension benefits

This pension can be paid to eligible dependents of a deceased wartime veteran. See 38 USC 1541. The applicant can be the surviving spouse or unmarried child of the deceased veteran. The veteran must not have been dishonorably discharged and have served at least 90 days of active service, at least one day during a war, and the applicant's income must be below a specified amount.

The pension is the difference between the dependent's applicable income cap and the dependent's actual income. For example, for an eligible surviving spouse with no dependents and countable annual income of \$5,000, the annual pension would be the difference between the \$6,026 cap and the \$5,000 of actual countable income, or \$1,026 (\$85 per month).

### Burial and memorial benefits

The National Cemetery Administration of the VA can assist the veteran's family with burial benefits, including opening and closing of the grave, perpetual care, government headstone and marker, flag, grave liner for casketed remains, transportation, and a Presidential Memorial Certificate.

There are 119 national cemeteries, three of which are located in Oregon: Willamette National Cemetery in Portland (telephone: 03.273.5250), Roseburg (telephone: 541.826.2511), and Eagle Point (call the Portland number). The spouse or not-remarried surviving spouse of

an eligible person is also eligible for interment in a national cemetery. Gravesites cannot be reserved in advance. However, the family should be encouraged to prepare in advance by discussing cemetery options, collecting the veteran's military information, and contacting the cemetery where burial is desired. A copy of any military separation documents, such as Department of Defense Form 214 (DD-214), will be required. If burial will be in a private cemetery and the family desires a government headstone or marker, the client should complete VA Form 40-1330, *Application for Standard Government Headstone or Marker for Installation in a Private or State Veterans' Cemetery*. This form can be completed in advance and should be placed with the veteran's military discharge papers for use at the time of need. To confirm eligibility for burial benefits, call a Veteran's Benefits Counselor at 800.827.1000. See 38 USC 2302 *et seq.* (burial allowance), 38 USC 2402 (burial in a national cemetery), 38 USC 2306 (burial in private cemetery). For eligibility criteria, see 38 CFR 3.1600 *et seq.*

<sup>1</sup> PL 100-687, 38 USC 7251. See also *Nat'l Ass'n of Radiation Survivors et al v. Derwinski*, 994 F.2d 583 (9th Cir. 1993), *cert. denied, sub nom Brown v. Nat'l Ass'n of Radiation Survivors*, No. 93-438 (Dec. 13, 1993).

### Sources of information about veterans' benefits

#### Federal VA information:

Telephone: 800.827.1000

Web site: [www.va.gov](http://www.va.gov)

The entire 107-page booklet entitled *Federal Benefits for Veterans and Dependents 2000*, S/N 051-000-00220-2 can be downloaded from the Web site. It can also be ordered for \$5.00 from the Superintendent of Documents; PO Box 371964; Pittsburgh, PA 15250-7954 (telephone 202.512.1800).

#### Oregon DVA information:

Telephone: 800.828.8801

Web site: [www.odva.state.or.us](http://www.odva.state.or.us)

#### Veterans service organizations (Portland):

American Legion: 503.326.1616

AMVETS: 503.326.5542

Disabled American Veterans: 503.326.2620

Paralyzed Veterans of America: 503.326.3167

Veterans of Foreign Wars: 503.326.2614

# Understanding Oregon Medicaid

By Janice E. Hatton and John C. Urness

Thorp, Purdy, Jewett, Urness & Wilkinson, P.C.; Springfield, Oregon

**M**edicaid is a joint federal and state program which pays for long term health care services for the aged and disabled who have low income and resources. Such services may include nursing home care, foster care, assisted living, in-home care, physician services and prescription drugs. The Senior and Disabled Services Division (SDSD) administers the Medicaid program in Oregon. The SDSD Administration Rules are online at [www.sdsd.hr.state.or.us/resources](http://www.sdsd.hr.state.or.us/resources).

Unless receiving SSI or ADC, the applicant must meet both an income and a resource test before qualifying for long term health care services under Medicaid.

## Income Test

If the applicant's income is over the current income cap limit of \$1,590 per month (for year 2001), the applicant is not eligible for Medicaid unless he or she can transfer or eliminate enough income to place the person under the income cap. The income cap amount is adjusted annually, and is always three times the SSI amount for an individual.

Only the gross income of the applicant is counted for Medicaid qualifying purposes; the income of the applicant's spouse is not counted. Income is presumed to belong to the person in whose name it is paid, and if the income is paid to more than one person, then SDSD presumes that the income is shared equally between the payees. Examples of available income include Social Security, pension benefits, annuity payments, income from a contract or note receivable, and alimony.

If the applicant's income is greater than the \$1,590 per month limit, the following options may be available:

- (a) If possible, shift income from the applicant to the spouse (e.g., transfer a contract receivable to the spouse);
- (b) If possible, convert the income to a resource (e.g., take a discounted payoff on a note or contract).

If such options are not available, then the applicant may establish an "Income Cap Trust" for purposes of meeting the income test. The Income Cap Trust is a specialized form that was developed and agreed upon by SDSD and a group of elder law attorneys. Pursuant to OAR 461-145-0540(5), the applicant, the applicant's attorney-in-fact if authorized, the appli-

cant's spouse, or a person authorized by a court, may establish an Income Cap Trust for the applicant.

Once established, all of Medicaid recipient's monthly income goes into the Income Cap Trust bank account. The income is then spent each month according to distribution schedules set forth in the Income Cap Trust. Allowable monthly distributions and payments from the Income Cap Trust include personal needs allowance for the Medicaid recipient, attorney's fees to set up the trust, tax preparer fees, income tax attributable to the income placed into the trust, a monthly fee to the trustee, the Medicaid recipient's health insurance premiums, medical care costs, contributions for the purchase of an irrevocable burial plan, and payments to the spouse if the spouse is entitled to allowances under the SDSD rules. After the payment of all other allowable deductions, the balance of the recipient's monthly income must be paid to the long term care facility.

## Resource Test

SDSD also looks at all of the resources of the applicant. Resources are either "available" (countable) or "excluded" (exempt). To meet the resource test, a person applying for Medicaid can have only \$2,000 in countable resources, plus his or her exempt resources. Examples of countable resources are bank accounts, certificates of deposit, stocks and bonds, cash value of life insurance, deferred annuities, IRAs, and real property.

## Exempt Resources

- a) The **home** if the applicant is residing therein or is reasonably expected to return to it, or if a spouse, minor or disabled child, or other dependent relative is living in the home. (OAR 461-145-0220)

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## Editor's note:

This article originally appeared in two installments in the *Oregon Estate Planning and Administration Section Newsletter*, Volume XVII, No. 2, April, 2000, and Volume XVIII, No. 3, July, 2000.

It is reprinted here with permission and with updated Medicaid figures.

## Understanding Medicaid...continued from page 7

- b) One **automobile** if used by applicant or spouse to get back and forth to work, medical appointments, or to visit applicant in a care facility. If none of the above apply, the value of the automobile is limited to \$4,500. (OAR 461-145-0360)
- c) All **personal and household belongings**, subject to a \$2,000 limit set forth in OAR 461-145-0390.  
Note: the \$2,000 limit is rarely invoked by SDDS.
- d) **Income-producing sales contract or note receivable** (OAR 461-145-0240)
- e) **Irrevocable immediate annuities** that are payable to either the applicant or applicant's spouse as long as the annuity pays out all principal and interest within the life expectancy of the Medicaid applicant or the applicant's spouse (whoever is the owner of the annuity). (OAR 461-140-0296[4])
- f) A **burial fund** of up to \$1,500 for the applicant and spouse or, if preferred, pre-paid burial arrangements for applicant and spouse (no dollar limit if plan is irrevocable; \$1,500 limit if revocable). (OAR 461-145-0040)
- g) **Burial space and merchandise** which includes plot, crypt, urn, headstone, casket, liner, burial vault, marker, and opening and closing of grave. As long as owned by the applicant, this may be purchased for the applicant and his/her spouse, children, siblings, parents, and the spouse of any of those people. (OAR 461-145-0050)
- h) **Term life insurance** (OAR 461-145-0320[2][e])
- i) **Medical equipment**

### Community Spouse Resource Allowance

Under Medicaid law, the Medicaid applicant's spouse (the community spouse) is allowed to retain a specific portion of the couple's countable assets. The amount of resources that the community spouse is allowed to retain is called the Community Spouse Resource Allowance (CSRA). The community spouse is allowed a CSRA equal to the largest of the following amounts:

- a) \$16,824 worth of countable resources if the total countable resources are less than \$33,648;
- b) One-half of the countable resources up to a maximum of \$84,120; or
- c) A court-ordered community spouse resource allowance.

To calculate the CSRA, the countable resources of either or both spouses are combined and valued as of the date the applicant began a continuous period of care (this can include in-home care) OAR 461-160-0580. The CSRA is computed by SDDS through a process called a "resource assessment." The resource assessment, which is based upon information provided to SDDS by the applicant and community spouse, generally should be scheduled as soon as the applicant begins a continuous period of care.

### Community Spouse Income Allowance

Under the Medicaid laws, all or a portion of the Medicaid recipient's monthly income may be diverted to the community spouse so that the community spouse has sufficient monthly income to provide for his or her support. Current Medicaid rules provide that the minimum monthly income to which the community spouse

is entitled is \$1,407, plus an excess shelter allowance equal to the amount by which the community spouse's monthly shelter costs exceed \$422. Shelter expenses are defined as rent or mortgage, taxes, insurance, required maintenance charge for a condominium or cooperative, plus the standard utility allowance for the spouse and eli-

gible dependents. (OAR 461-160-0620[5]) The minimum amount can also be increased by court order. The amount diverted from the applicant's income to get the community spouse's income up to this amount is called the Community Spouse Income Allowance (CSIA).

### Medicaid planning

As discussed above, the resource test for a married Medicaid applicant is met when the only resources the couple has are the amount allowed for the community spouse resource allowance of the community spouse, the Medicaid applicant's \$2,000 resource allowance, and the exempt resources. The balance of the resources must be "spent down" or protected before the resource test will be met. The following are planning techniques for preserving assets for the Medicaid applicant's spouse and possibly for other family members.

### Transfer and Wait

#### General Rule

The transfer of assets for less than fair market value to anyone other than the community spouse is consid-

*Under the Medicaid laws, all or a portion of the Medicaid recipient's monthly income may be diverted to the community spouse so that the community spouse has sufficient monthly income to provide for his or her support.*

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## Understanding Medicaid...continued from page 8

ered a disqualifying transfer under Medicaid law. The period of disqualification (in number of months) is determined by taking the uncompensated value of the transferred assets and dividing by \$3,750, rounded down to the nearest full month. (OAR 461-140-0296)



Note: the transfer penalty figure for transfers made between October 1, 1993 and September 30, 1998, is \$2,595. (OAR 461-140-0295) There is a three-year "look back" period in determining the disqualifying period. A 60-month look-back period applies to transfers to an irrevocable trust of which the funds transferred into the trust are unavailable for the benefit of the applicant. (OAR 461-145-0540[9]), OAR 461-140-

0210[2][c][D]) The starting date for the period of ineligibility is the first day of the first month in which the transfer took place. (OAR 461-140-0296)

*Example: If on November 1, 2001, the applicant gave away \$150,000 in assets to his daughter, and if he applied for Medicaid benefits on December 1, 2001, then he would be disqualified from receiving Medicaid benefits for 40 months (three years and four months) from the date of the transfer. However, if on November 1, 2001, the applicant gave away \$150,000 in assets to his daughter, and if he applied for Medicaid benefits on November 2, 2004, then the look-back period (three years) will have already passed with respect to that \$150,000 transfer, and the applicant would not have to report it on the Medicaid application. Therefore, if the applicant makes any gifts, he should wait until after the disqualification period, or until the 36-month look-back period (whichever is shorter), has expired prior to applying for Medicaid benefits.*

### Exceptions to General Rule

There are transfers which will not result in a period of Medicaid ineligibility. (OAR 461-140-0242).

- a. **Transfer to spouse** Unlimited transfers to the community spouse are permissible.
- b. **Transfer to a blind or disabled child**
- c. **Transfer of primary residence** The applicant may transfer his or her home under the following cir-

cumstances, without the transfer resulting in a period of Medicaid ineligibility:

- (1) Transfer to the community spouse.
- (2) Transfer to a minor (under age 21), blind, or disabled child.
- (3) Transfer to an adult child who has resided with and provided care to the applicant for a period of at least two consecutive years immediately before the date the applicant became institutionalized.
- (4) Transfer to a sibling with an equity interest and who has resided in the applicant's home (no care giving required) for a period of one year immediately before the applicant's admission to long-term care.

### Spend Down

Any resources over and above the \$2,000 resource allowance for the Medicaid applicant and the exempt resources must be spent down or protected in some way before the applicant will qualify for Medicaid. However, the resources do not have to be spent on the care needs of the applicant. So long as the individual receives fair market value for the resource, it is a legitimate expenditure. Tips for a wise spend down:

- a. Do the "Resource Assessment" before the applicant starts spending the countable resources.
- b. Spend down the applicant's share of countable assets on non-countable assets that will be of benefit to the applicant and spouse:
  - (1) Pay off debt.
  - (2) Make repairs to home, e.g., new roof, carpet, etc.
  - (3) Buy a newer car for the spouse or repair old one.
  - (4) Buy a more expensive home.
  - (5) Purchase burial plans and merchandise for the applicant and the spouse, the applicant's children, siblings, and/or parents (See OAR 461-145-0050).
  - (6) Purchase an irrevocable annuity for the spouse.
  - (7) Pay family members for their care providing services.
  - (8) An interest in the home of an adult child may be purchased if the couple is living with the child. Note: be aware of potential estate recovery claims.
  - (9) Purchase long-term health care insurance or

Continued on page 10

## Understanding Medicaid...continued from page 9

buy into a continuing-care retirement community for the community spouse.

### Increase of Community Spouse Resource Allowance (CSRA)

The amount of the community spouse resource allowance (CSRA), as determined on the first day of continuing care, can be increased by two methods.

First, SDDS rules allow an increase in the community spouse resource allowance if ordered by the court. A community spouse may petition the court for support from an institutionalized spouse under ORS 108.110. In some cases, the applicant's entire one-half share of the countable resources can be shifted to the community spouse, thus eliminating any spend down. However, a petition for support, depending on the requested CSRA, may be closely scrutinized by SDDS. (OAR 461-160-0580[1][f][C])

Second, the Medicaid rules allow a transfer of additional resources to the community spouse when the couple's combined monthly income is insufficient to bring the community spouse's monthly income up to the minimum monthly maintenance needs allowance ("MMMNA"). The current MMMNA is \$1,407 per month (effective April 1, 2000), plus an excess shelter allowance equal to the amount by which the community spouse's monthly shelter costs exceed \$422 (effective April 1, 2000). (OAR 461-160-062[5]) If the gross monthly income of the community spouse, plus the income allowed to be transferred to the community spouse from the applicant, is less than the community spouse's MMMNA, then the community spouse is allowed to retain additional resources to generate sufficient income to reach the MMMNA. (OAR 461-160-0580[1][f][D])

### Converting Resources to Income

Once the resource assessment is completed, and the applicant's spend-down requirement has been determined, the nonexempt resources may be converted into income so that they are not treated as countable resources. This planning technique may be accomplished by use of one (or both) of the following options:

1. If the resource is a rental house or vacation home, or if the countable resource can be used to purchase a rental or vacation home, then the home can be sold on contract. Because an income-producing sales contract is an exempt resource under the Medicaid rules, only the monthly payment is counted. If real property is transferred into the sole name of the community spouse before it is sold, then the monthly income will only be counted as

income for the community spouse. It will not affect the eligibility of the Medicaid applicant, although it will affect the amount of income that can be transferred from the institutionalized spouse to the community spouse.

2. Part or all of the required spend down amount can be used to purchase an annuity. Under the Medicaid rules, if the irrevocable immediate annuity is owned by the applicant or the applicant's spouse, and if the principal and income are required to be paid in full over the life expectancy of the owner, then the annuity is an exempt resource. The SDDS Annuity Life Expectancy Tables are online at [www.sdsd.hr.state.or.us/resources/workergd/e.1\\_ann.htm](http://www.sdsd.hr.state.or.us/resources/workergd/e.1_ann.htm)

### Divorce/Legal Separation

Although not a common or popular technique, a court-ordered legal division of assets in a divorce or legal separation may protect the community spouse's resources from a spend down requirement and/or an estate recovery claim.

### Purchase Long-Term Care Insurance

The purchase of long term care insurance for an individual or a married couple may avoid the need for a Medicaid application.

**I**n applying the above planning techniques, keep in mind that SDDS keeps track of the amount of the Medicaid assistance it provides to the recipient (ORS 414.105[2]) and authorizes the Oregon Department of Human Resources to recover paid medical assistance from the estate of a Medicaid recipient who was age 55 years or older, or from the estate of the recipient's spouse.

Under prior law, the state was able to collect the paid Medicaid benefits from the entire estate of the surviving spouse. However, under current law, if the recipient has a surviving spouse at the time of the recipient's death, then the estate recovery is delayed until the death of the surviving spouse; and is limited to the assets that the surviving spouse inherited or received from the deceased recipient. (ORS 414.105[2]) Therefore, when applying the above techniques with married couples, it is important to ensure that excluded resources are placed in the sole name of the community spouse so that the Medicaid recipient has no ownership interest in the resources at the time of his or her death.

## Elder Law Section ends busy, productive year

By Richard A. Pagnano, Elder Law Section Chair

The past year has been a very successful one for the Elder Law Section. We now have 444 members. We also have a paid editor for our newsletter and I think all of the members can appreciate the results. The Section put on an excellent Continuing Legal Education program this year, has worked hard on new legislation which was more fully described in the last newsletter, and has had many productive meetings with the Senior and Disabled Services Division. At the conclusion of the third year since the Elder Law Section's inception, it is appropriate to thank all of the members who have given so much time and energy to making the Section valuable.

I would like to thank the following officers:

Secretary **Lisa Bertalan** and Treasurer **Jane Patterson**.

I would also like to thank the following subcommittee chairs for all of their hard work: *Newsletter Subcommittee*: **Shirley Bass**, who has helped to make the newsletter one of the most well-produced and written of those available to members of the Bar.

*Agency Subcommittee*: **Sam Friedenberg**, who has met with Senior and Disabled Services Division to keep us informed of changes and proposals affecting long-term care planning. *CLE Subcommittee*: **Tim Nay**, who was responsible for putting on a fine program this fall. I am still hearing positive remarks about the CLE from other members. *Legislation Subcommittee*:

**Jennifer Wright**, who has worked tirelessly on several legislative proposals that would improve the practice of elder law. *Computers and Technology Subcommittee*: **Greta Gibbs**, who has helped to estab-

lish the Section's Web page. *Pro-Bono Subcommittee*:

**Holly Robinson**, who really got the subcommittee off the ground.

I must also thank the Section members who worked long, hard hours on the new Uniform Trial Court Rules to standardize the preparation of probate and conservatorship accountings in Oregon, including the preparation of forms that practitioners can use and refer to: **Hon. Rita Batz Cobb, Jennifer Todd, Sam Friedenberg, and Robert Dorszynski**.

And finally I'd like to thank **Donna Meyer**, the past chair, for teaching me the ropes. With **Cinda Conroyd** taking over the helm next year, I am sure that the Section won't miss a beat, and will continue to grow and thrive.

I encourage members of the Section to get involved in areas in which they have an interest by contacting the subcommittee chair and volunteering their time.

### Member news

**Sylvia Sycamore**, a graduate of University of Oregon Law School and holding an M.A. from Case Western Reserve, has recently joined Helen B. Hempel, PC in Eugene.

**Garvin Reiter**, formerly with Legal Aid Services of Oregon in Albany, has joined the Portland firm of Nay & Friedenberg.

**Kristianne Cox** will be sharing an office with Dady Blake. Their new address will be 12600 SE Stark Street, Bldg N, Portland 97233.

**Donna Meyer** has joined Wes Fitzwater. The new firm will be Fitzwater & Meyer, located at 10121 SE Sunnyside Road, Suite 140, Clackamas 97015.

**Mark Williams** has relocated his office to 121 SW Morrison Street, Suite 900; Portland 97204. Mark recently received University of Portland's Thomas C. Oddo Outstanding Service Award.

**Tim Nay**, along with other local experts on aging, appeared on an OPB two-hour special entitled *Growing Up and Growing Old*, broadcast on October 11, 2000.

**Michael Levelle** has joined the firm of Duffy Kekel, LLP, as of counsel. His new location is 1100 SW Sixth Avenue, Suite 1200, in Portland.

**Steve Kurzer** has joined John Sorlie and Lisa Bertalan, all of whom practice in the area of elder law with the firm of Bryant, Lovlien & Jarvis, PC in Bend.

#### New officers named at annual business meeting



Pictured with outgoing Chair Richard Pagnano are Elder Law Section officers for 2001:

(l to r) Shirley Bass, Secretary; Jane Patterson, Treasurer; Cinda Conroyd, Chair.

Not pictured: Lisa Bertalen, Chair Elect.

## Elder Law Section subcommittee reports

### Legislative Subcommittee

*Jennifer L. Wright, Chair*

The legislative subcommittee has been busy preparing proposals for the 2001 legislative session. The Elder Law Section submitted six law improvement bills for pre-session filing. Three proposals would amend the protective proceedings statute: first, to correct the inadvertent deletion of a notice requirement in the last legislative session; second, to permit the state court to create supplemental needs trusts where permitted by federal statute; and third, to require guardians to provide notice of intent to place protected persons in a care facility to the Long Term Care Ombudsman, the Oregon Advocacy Center, and/or the attorney who represented the protected person during the protective proceeding.

Another proposal would provide for Medicaid payment for guardianship fees and costs when a guardianship is necessary to obtain medical treatment for a Medicaid recipient.

Another bill attempts to ensure that powers of attorney will be accepted as valid by financial institutions even if several years have passed since execution. It provides that, if financial institutions refuse to honor a power of attorney solely because of the time lapse since execution, they may be liable for attorneys' fees in a successful proceeding to establish the validity of the power of attorney.

A sixth bill would amend the advance directive statute to permit the court to consolidate a proceeding to challenge the validity of an advance directive with a concurrent protective proceeding.

The legislative subcommittee will be busy during the session, lobbying these bills and responding to other bills which affect elder law practitioners. The co-chairs for the coming year are Jennifer Wright and Ruth Simonis. The subcommittee welcomes new members.

### Agency and Professional Relations Subcommittee

*Sam Friedenbergh, Chair*

The subcommittee met four times with representatives from the state, particularly Jeff Miller, the Medicaid Policy Analyst, and Roy Fredericks, the manager of the Estate Administration Unit. Each time the subcommittee provided a written summary of the meeting to the Executive Committee. Relevant information has been provided to the Section newsletter.

The subcommittee has advocated on several issues important to the Section. Advocacy has been more successful in some cases than in others, but it has always been in the best interest of Section members. Issues addressed

include:

- elimination of the requirement of "special circumstances" in petitions for spousal support
- parameters for spousal annuitized trusts
- clarification of the availability of post-eligibility transfers by community spouses
- increasing the dollar amount of the divider for non-exempt transfers
- encouraging agency use of the proper redetermination of eligibility form each year
- establishing hardship rules
- clarification of fee, expenses, reserves, and allowable deductions in income cap trusts
- estate recovery from life estates held by decedent applicant, estate recovery from annuities
- parameters of the personal incidental funds held by clients in facilities
- pooled trust rules being out of compliance with federal law

The subcommittee has submitted written comments on at least three occasions, and has facilitated communication on a number of issues.

The subcommittee has also coordinated the distribution of the Section newsletter to various state employees, and has disseminated requests from the state via the newsletter.

In the coming year, the subcommittee will continue to meet quarterly with state employees to share information and advocate on behalf of the Section.

### Computer and Technology Subcommittee

*Greta Gibbs, Chair*

The subcommittee is in the process of transferring the Elder Law Web site to the new system provided by the Oregon State Bar. The new and improved Web site will allow the Section Webmaster to update the information on the site without assistance from the OSB staff. Members of the Section have been requested to share Internet sites they have found useful, and the Internet links on the Section Web site are being updated and expanded. The benefits of an online "bulletin board" for Section members are being considered.

### Newsletter Subcommittee

*Shirley A. Bass, Chair*

The *Elder Law Newsletter* is published four times annually. Carole Barkley serves as editor-in-chief and is assisted by an advisory board chaired by Shirley Bass. The newsletter is designed to keep Section members, both generalists and those practitioners more actively involved in an elder law practice, aware of current issues and developments in the area.

# Important Elder Law Numbers

As of January 1, 2001

<b>Supplemental Security Income (SSI) Benefit Standards</b>	Eligible individual	\$530/month
	Eligible couple	\$796/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
	Monthly maintenance standard for long-term care in community	\$531.70
	Long-term care income cap	\$1,590/month
	Community spouse minimum resource standard	\$17,400
	Community spouse maximum resource standard	\$87,000
	Community spouse minimum monthly allowance standard	\$1,407/month*
	Excess shelter allowance	Amount above \$422/month*
	Food stamp utility allowance used to figure excess shelter allowance	\$224/month**
Average private pay rate for calculating ineligibility for transfers of assets at less than fair market value after October 1, 2000	\$3,750/month	
<b>Medicare</b>	Hospital deductible per illness spell	\$792
	Skilled nursing facility co-insurance for days 21-100	\$99/day
	Part B premium	\$50/month
	Part B deductible	\$100/year

\*Figure changes in April.

\*\*Figure changes in October.

Starting January 2001, recipients of Social Security retirement benefits will receive a 3.5% cost-of-living increase.

## Resources for elder law attorneys

### Events

#### Oregon Medicare and Medicaid Benefits and Eligibility for the Elderly

December 8, 2000

Doubletree Jantzen Beach, Portland.

Contact: HalfMoon LLC at 715.835.5900.

#### Medicaid and Elder Abuse: Problems, Pitfalls, and Malpractice Traps

December 13, 2000

3:00 - 5:00 p.m.

World Trade Center Auditorium, Portland.

Contact: Multnomah Bar Association at 503.222.3275.

#### Last Chance Video Marathon

December 28-29, 2000

Oregon State Bar Center, Lake Oswego.

Your last chance to earn MCLE and Ethics credits for the year. Watch your December mail for a notice.

#### NAELA (National Academy of Elder Law Attorneys) Unprogram

February 2-4, 2001

Embassy Suites Outdoor World

Dallas, Texas.

Provides members the opportunity to spend time with each other and brainstorm about issues affecting their practices in an unstructured setting, focusing on small group discussions. Limited to 150 participants.

Information: Jihane Rohrbacker, Communications Director, at 520.881.4005, ext. 115; e-mail: jrohrbacker@naela.com.

Registration information: Jenifer Mowery at 520.881.4005, ext. 114; e-mail: jmowery@naela.com.

#### Problem Solving with Probate

February 23, 2001

Oregon Convention Center.

Contact: Oregon Law Institute at 503.243.3326 or 800.222.8213.

#### Designing Our Future @aging.community

March 8-11, 2001

Hyatt Regency

New Orleans, Louisiana.

First national conference of the American Society on Aging and the National Council on the Aging.

The nation's two largest professional associations in aging come together to offer an educational conference and networking opportunity for professionals in the field of aging. More than 800 sessions covering a diverse range of topics in aging will showcase innovating programs, foster policy discussion and advocacy, and share cutting-edge research findings.

Conference Web site: <http://www.agingconference.org>

#### NAELA Annual Symposium on Elder Law

April 18-22, 2001

Hyatt Regency

Vancouver, British Columbia.

Information: Jihane Rohrbacker, Communications Director, at 520.881.4005, ext. 115; e-mail: jrohrbacker@naela.com.

Registration information: Jenifer Mowery at 520.881.4005, ext. 114; e-mail: jmowery@naela.com.

#### NAELA Annual Elder Law Institute

November 1-4, 2001

Hyatt Union Station

St. Louis, Missouri.

Information: Jihane Rohrbacker, Communications Director, at 520.881.4005, ext. 115; e-mail: jrohrbacker@naela.com.

Registration information: Jenifer Mowery at 520.881.4005, ext. 114; e-mail: jmowery@naela.com.

#### Elder Law Discussion Groups

Elder Law I meets second Thursday of month

Lloyd Center Tower, NE Portland.

Elder Law II meets first Thursday

Legal Aid Services, Downtown Portland.

For details: Ann Stacey at 503.224.4086.

#### Elder Law Internet Discussion List

To subscribe, send a message to:

lyris@lists.law.stetson.edu

Leave the subject line blank, and do not include a signature block.

The body of the message should be:

Subscribe orelder *your first name your last name*

Send messages to: orelder@lists.law.stetson.edu

Some guidelines for the discussion list:

- If you simply use your "reply" function in response to a message sent to you, your reply will go to all the members of the discussion list. You may want to respond only to the person who sent the original message. In that case, be sure the enter his or her e-mail address.
- If you are posting a question or message to the list, be sure to include your e-mail address in your post. If you want people to respond privately to you, say so.
- Avoid any implication of antitrust. Avoid discussions of pricing or fees.
- When quoting from other sources, include attribution.

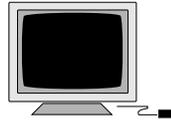
#### New low-income tax clinic

Portland's Lewis and Clark Law School has established an income-tax clinic which is free to qualified low-income taxpayers. Law students handle federal tax cases under the supervision of attorney Jan R. Pierce, who has more than 27 years of experience with the IRS Chief Counsel.

For more information, call 503-222-6429 or e-mail pierce@lclark.edu.

## Web sites you can use

By Susan Ford Burns, Portland



The free or low-cost availability of data has transformed the ability of small and solo practitioners to keep up with rapidly changing areas of law and has reduced the need to maintain expensive law libraries. Although the Internet has made data more available, that does not mean it is necessarily more accessible. I hope that by sharing some of my favorite Web sites—and some of your favorites—I will be able to make this data more accessible to the members of our section.

This newsletter, I thought I would start out with some resources for legal-related research. I will not go into the general search engines, since I expect that most readers have already at least looked at or used some of the big ones—for example, [www.excite.com](http://www.excite.com), [www.altavista.com](http://www.altavista.com), [www.intel-liseek.com](http://www.intel-liseek.com), and [www.yahoo.com](http://www.yahoo.com). Instead I want to focus on sites that contain information that is useful for elder law practice related research.

### LLRX.com

One of my favorite sites for general legal technology information and research resources is [www.llrx.com](http://www.llrx.com). This site bills itself as a “unique, free Web journal dedicated to providing legal professionals with the most up-to-date information on a wide range of Internet legal research and technology-related issues.”

Unlike many sites, it lives up to its own hype. Many of the articles on this site focus on specific areas of legal research and link to other sites where this research can be done. For example, an article at [http://www.llrx.com/features/us\\_fed.htm](http://www.llrx.com/features/us_fed.htm) offers a complete guide to Web-based, publicly accessible resources for learning about and researching all manner of law in all three branches of the federal government.

LLRX.com also helps those who need to research more esoteric areas like international laws. A recent article identified Web-based resources for researching the laws of the Pacific Islands.

Along with assisting in the research of laws, LLRX.com helps inform users of various technology-related issues like an October 16, 2000 article entitled “Who Is Reading Your Hard Drive Tonight?” and hosts roundtable discussions on technology topics like a recent discussion on law firm marketing on the Internet.

### Oregon State Bar

There is a lot of useful information available here at <http://www.osbar.org/>. From the main page, you can obtain current address and telephone numbers for all members of the Bar. The membership directory is searchable by name (even parts of names), or Bar number. Further into the site, you will find the Elder Law Section’s Web site. This Web site contains the all-important Elder Law Numbers as well as a few elder-law-related Internet links and our past newsletters. Watch for changes early next year which will make this Web site more valuable and interesting.

### Katsuey’s Legal Gateway

<http://www.katsuey.com/>

Here you will find a variety of different resources categorized generally by area of law, including resources for legal forms, discussion groups, and journals.

### Pacific Information Resources, Inc.

<http://www.pac-info.com/>

This Web site contains a little of everything for everywhere. Elder law practitioners are likely to find this site useful because it contains links to unclaimed property search sites in various states, along with links to some county tax assessors’ offices (for property tax information and maps), professional license databases, and many other potentially useful databases. This site also led me to a link that should be very useful: the State of Oregon’s employee search form!

### State of Oregon Employee Search Form

Which one of us hasn’t had to find the phone number for a particular state employee and spent significant amounts of our time trying to find that person? This site should help speed up that search:

<http://www.state.or.us/cgi-bin/employee.html> .

You can even search for someone when you have only part of a name or a phonetic spelling.

This column will be a regular part of our Section newsletter. I welcome and encourage you to send me your favorite Web sites, so I can share them, both through this column and on our Section’s Web site. E-mail your suggestions to me, Sue Burns, at [sburns@burns-law.com](mailto:sburns@burns-law.com).

## Elder Law book available from Bar

**E**lder Law, the first comprehensive reference for this still-new practice area, is now available from the Oregon State Bar. This book is for any Oregon attorney who does estate planning, health law, general practice, family law, or litigation that involves the elderly or people with disabilities.

*Elder Law* takes you through the many issues and processes that you will encounter, including planning for incapacity, helping your client understand the legal aspects of financial planning, using the Social Security and Medicare programs, guiding your client through health insurance and long-term-care choices, paying for long-term care, elder abuse and nursing home litigation, ADEA and ADA, and family law issues.

This important book provides resources to help you stay on top of this changing field. Also available are useful forms on computer disk. If you prefer, you can order the book in CD-ROM format.

The price for *Elder Law* is \$165. To order with a credit card, call the Bar at 503.684.7413 or 800.452.8260, ext. 413

## Newsletter Board

The *Elder Law Newsletter* is published quarterly by the Oregon State Bar's Elder Law Section, Richard Pagnano, Chair

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