Oregon State Bar

Elder Law Newsletter

Volume 22
Number 3
July 2019

Estate planning for clients with farms

By Tammy Kimata, Attorney at Law

Oregon's environment makes this a prime location for growing and cultivating crops, including grass seed, filberts, and various fruit trees. Therefore, it is unsurprising that an estate planning attorney's clientele includes agriculture clients. Many of these clients are members of a family business that spans several generations. One common goal they express: help them maintain and keep the family farm for the next generation. However, several issues affect the client's ability to achieve this goal.

Estate tax Issue

Many agriculture clients are asset rich and cash poor (i.e., the bulk of their estates consists of real property such as farmland, timber, Christmas trees, etc.). This often results in their estate exceeding the Oregon and possibly the federal exemption amounts.

According to ORS 118.010, the Oregon exemption amount is $1,000,000 and the Oregon estate tax rate starts at 10% and reaches a maximum of 16%. The federal exemption amount for 2019 is $11,400,000 and the federal estate tax rates start at 18% and reach a maximum of 40% (26 US Code §2001). Generally, operations of an agriculture business have very tight margins which leave insufficient cash to pay the Oregon and/or federal estate tax. However, careful planning can help to minimize, or in some cases, eliminate the estate tax.

One option is to sell their real property to generate cash. However, that is not an ideal option if their goal is to pass along the family business to the next generation—especially if the next generation is already actively involved in the operations of the family farm.

Another option is to minimize the Oregon estate tax by making a Natural Resource Property Credit election (NRPC) on the decedent's estate tax return. The purpose of the NRPC is to help protect our clients from losing their agriculture business due to a death in the family. However, there are several requirements that must be met in order to make this election. For example, two significant requirements are (1) 50% of the adjusted gross estate must be Natural Resource Property (NRP) and (2) at least five out of the eight years following the decedent's death, the family member or an entity operated by a family member must operate the family business and use the NRP in the family business. ORS 118.140(3) and 118.140(9)(a).

Continued on page 2

In this issue

Estate planning for farmers

Continued from page 1

Tammy Kimata is an attorney with more than 14 years of estate and business planning, She has established herself as an industry expert in creating, planning, and transactional work for estates, trusts, and businesses. Tammy is a graduate of the University of Oregon School of Law, and is licensed in both Oregon and Hawaii.

If the decedent's family member does not operate the family business for five out of the eight years following the death, there will be a recapture of the Oregon estate tax, creating a liability owed by the family member who inherits and owns the NRP. ORS 118.140(9)(e). Therefore, in order to take advantage of the NRPC, careful planning and an open discussion between the family members are required. This option will not work if the inheriting family member intends to sell or transfer the property to a non-qualified heir. It is also important that the client consult with an attorney because there are other requirements to meeting the NRPC besides the two referenced above.

If a client has a taxable estate, another option is implementation of a gifting plan. The client could gift his or her interest in the agriculture business to the next generation. While Oregon does not have a gift tax, if one makes a gift that exceeds the annual federal exclusion amount (currently $15,000) then the federal government imposes a gift tax. However, each individual currently has an $11,400,000 federal exemption amount that can be used during one's lifetime to avoid paying the gift tax. The disadvantage of making a lifetime gift is that the gift recipient will receive the basis that the transferor had in the asset. If the gift recipient sells the asset, he or she will likely have capital gains. However, if the gift recipient does not intend to sell the asset because he or she is actively operating the family business, then taking advantage of gifting may be an ideal option for reducing the decedent's taxable estate.

Another option is the purchase of life insurance. One structure is to have the family members who will inherit the family business and the decedent's remaining assets be named as the beneficiaries of the life insurance policy. When the decedent dies, they can use the death benefits to pay the estate tax. Another structure, especially if there are family members who are not actively involved in the family business but will inherit the decedent's assets, is to have the family business purchase the life insurance on the agriculture client's life and name the family business as the beneficiary. The family business can use the death benefits to buy out the interest of the non-active beneficiaries. There are many policy options available and it is essential that the correct policy is chosen. You do not want a policy that may lapse or become uneconomical, which forces the client to cancel the policy. Therefore, it is important that the client and attorney consult with a knowledgeable and experienced life insurance agent.

Planning for long term care

Another issue that affects agriculture clients is their inability to pay for long term care. People are living longer, which usually means the cost of care is increasing. On average, the monthly cost of care is $8,000 to $12,000. As noted above, our agriculture clients do not have a lot of cash and selling the family farm is not an ideal option. This also means that these clients do not qualify for Medicaid, because their agriculture property is not considered an exempt asset for Medicaid purposes. Because of Medicaid's five-year look-back period, a client who wants to qualify for Medicaid in Oregon, while maintaining the agriculture property within his or her family, must begin planning at least five years before the Medicaid benefits are needed. One of the options for Medicaid qualification is for the client to gift his or her assets to others (usually the children). However, the client will not qualify for Medicaid for up to five years following the transfer. The drawback with gifting all of the assets is that the client will need to rely on family members to pay for care and support during the five-year penalty period. Another drawback is that a family member who receives the agricultural property assumes the basis that the agriculture client had in the asset. If the family member decides to sell the asset, he or she will likely have to pay capital gains.

Continued on page 3

Estate planning for farmers

Continued from page 2

Another option to consider is the purchase of long term care insurance. However, to make the most of this option, the person should be looking at purchasing insurance well before the time when he or she needs to pay for care to avoid escalating premiums that grow larger as persons age. Policy benefits must also be carefully reviewed, because some of them do not provide adequate financial support.

Inactive vs. actively involved children

Inactive versus active involvement of various family members can create another issue with multiple layers of complexity. When a client leaves the family business to all of his or her children, but only some of the children are actively involved in the family business, a disparity is created in the family dynamic. If the family business has significant amount of debt, the lender may require all owners of the family business to sign personal guarantees.

Are the non-active children willing to sign a personal guarantee for a family business they have no control over? If the non-active family members want to be bought out of the family business, can the family business afford to buy them out? This is another situation where planning is essential. Careful use of buy-sell agreements and discussions regarding family dynamics are just as crucial to the success of future generations.

It may be necessary for our agriculture clients to let go of some of the reins and educate the next generation about the family business and how it operates. If the first generation does not give the next generation the opportunity to learn about the business, there is a good chance that the family business will fail.

While the complexity of these estate planning tools go beyond the scope of this article, experienced estate planning attorneys can leverage them to the benefit of their clients. ■

Washington State enacts new program to help with cost of long term care

Starting in 2025, eligible Washington residents will have a new benefit available to them: a $100-per-day allowance for a variety of long term care services, including nursing homes, in-home meals, home equipment, and necessary renovations to their homes. Beneficiaries can also use the benefit to provide financial support to family caregivers.

The Long-Term Care Trust Act will provide a lifetime benefit of $36,500, indexed annually for inflation. To be eligible, recipients must need assistance to complete three activities of daily living, such as bathing and dressing.

Funding for the program will come from a payroll tax, starting in 2022. Employers will deduct 0.58 percent of an employee's pay and put it into a state fund.

Workers would be able to access their benefits once they've paid into the program for 10 years, although some may become eligible sooner while the program is being ramped up.

Those who have purchased long term care insurance will not have to pay the tax. Self-employed individuals can choose to pay into the system, but will not be required to do so.

The median retirement savings for people over 65 in Washington is $148,000, while the cost for those who need care averages $266,000.

Because Medicare does not pay for most long term care, Washington spends $24,000 a year for each Medicaid recipient who needs in-home care and $65,000 for nursing-home residents. This accounts for six percent of the state's operating budget. Adding a tax to pay for some long term care is intended to ease that burden—which is likely to increase as the population ages. ■

Estate planning for second marriages and blended families

By Anastasia Yu Meisner, Attorney at Law

Anastasia (Stacie) Yu Meisner is of counsel with Samuels Yoelin Kantor LLP in Portland. She focuses on estate planning, mediation, probate, and trust and estate administration. In addition, her work includes guardianships and conservatorships, and business transactions and formation. She also serves as a pro tem judge for the Washington County Probate Department.

On the surface, estate planning appears so simple. Find a will form, fill it out, and you're done. And this may be true for a young couple who use sweetheart wills. But look deeper, under the surface, and the waters may be quite turbulent: second marriages; disproportionate assets brought into the marriage; support obligations to a prior spouse and dependent children; pre-nuptial and post-nuptial agreements; children together and/or from previous relationships; May–December marriages; the marital home; family heirlooms; control of assets; and taxes.

A quote attributed to Niccola Machiavelli may hold true for some attorneys: "A son can bear with equanimity the loss of his father but the loss of his inheritance may drive him to despair."

As attorneys, we routinely see how poor planning may result in children waiting for a step-parent to die; will and trust contests; concerns about control of assets; arguments about burial arrangements, who keeps the cremains, and distribution of heirlooms; and strife between separate sides of a family. Some clients with blended families will come to their attorney with little or no concern about achieving their estate planning goals. And many times their assessment is correct. However, there are also situations when clients don't realize the challenges of estate planning in a second marriage or with a blended family. From the perspective of these clients, the blended family has functioned well. And that may be due in part because both parents are healthy and financially capable. Nevertheless when illness enters the picture with burdensome long term care needs, or a biological parent dies, tensions begin to stir around emotions, insecurity, suspicion, and fear on the part of the surviving spouse, step-children, and the surviving spouse's children.

Preparing an effective estate plan for second marriages and blended families is often hard work. It requires thoughtful discussions with your clients, breadth of knowledge, and experience in a variety of estate planning techniques, whether simple or complex. A little pragmatism is also a helpful tool to have on your tool belt. Clients may have to kick the tires a bit before executing their estate plan. These types of estate plans take time to prepare because the clients have to deliberate.

First, determine if either spouse has existing support obligations to an ex-spouse or dependent children. Clients may also have a prenuptial or post-nuptial agreement they both want to honor or may want to plan around. You should also consider whether a future claim by a spouse of an elective share will undermine the goals as currently expressed by the couple.

Though trusts are not the end-all and be-all of estate planning, simple wills may be insufficient to meet the estate-planning goals for a couple in a second marriage or with a blended family. A simple will that provides for the surviving spouse with a contingency to children from a previous relationship may result in children never receiving an inheritance, if the surviving step-parent rewrites his or her will to leave out non-biological children or makes significant lifetime gifts.

One technique to include in an estate plan based on simple wills is the use of a contract in which the couple promises to make and abide by specific provisions and bequests in their wills. Upon the first spouse's death, the terms of the will become irrevocable. Such contracts to make a will, when properly done, are valid. See ORS 112.270.

Continued on page 5

Estate planning for second marriages

Continued from page 4

However, there are drawbacks. A surviving spouse may have legitimate reasons to amend or revoke his or her estate plan, such as a frustration of purpose or unexpected disability of an adult child needing long-term government assistance. Also, given the contractual nature of this type of arrangement, be sure to have another attorney involved for independent advice and counsel.

When each spouse has sufficient assets, planning can be straightforward. Spouses take care of themselves and then leave their assets to their biological children. However, if one spouse has considerably more assets than the other, or both are of modest means, use of a trust tends to be prudent to ensure financial security for the surviving spouse and to safeguard an inheritance for the deceased spouse's children.

A variety of trust options can address the needs of second marriages and blended families. A credit shelter trust (CST) can provide income for the surviving spouse, and with the remaining assets to be distributed to children. The trust provides some relief from Oregon estate tax. Similarly a qualified terminable interest property trust (QTIP) keeps assets in trust and can qualify for the marital deduction. Upon the first spouse's death, the surviving spouse has the right to trust income for his or her support, and the trustee may make distributions of trust principal to the surviving spouse. This type of trust is also drafted to preclude the surviving spouse from amending the trust. Thus, upon the second spouse's death, the remaining trust assets are distributed to the children.

For May-December couples, the death of the older spouse may result in his or her children having to wait a long time to receive their inheritance. In situations where the surviving spouse has sufficient resources for his or her needs, directing an outright distribution to the children at the first spouse's death can avoid complications down the road.

As an alternative, an irrevocable life insurance trust (ILIT), in which the trust owns a life insurance policy based on the insured's life and the beneficiaries of the trust are the children, can provide an inheritance upon the older spouse's death without waiting for the step-parent to die. And the death benefit is not included in the decedent's estate.

When creating trusts for second marriages and blended families, selecting the appropriate trustee may be a pivotal decision. Choosing the surviving spouse or a child from a previous relationship as trustee could pit loved ones against one another. Instead, consider a disinterested trustee to avoid direct conflict between family members.

A highly sensitive area is the marital home. If the couple acquired the home together, you may want to consider outright distribution of the home to the surviving spouse. However, if the home was previously owned by one of the spouses, thoughtful planning is wise. Though a life estate in the home or placing the home in further trust for the surviving spouse without further provisions is valid, consider potential foreseeable issues: Who pays for the property taxes and fire insurance? Who pays for the maintenance and upkeep? Should the life estate or trust terminate when the surviving spouse remarries or moves out? Can the home be encumbered for limited reasons? Can the home be used as an investment property?

Finally, you should review account and beneficiary designations. Misaligned designations may inadvertently thwart a couple's overall estate planning goals. Well-considered designations can provide clarity and thus abate potential family conflicts. ■

Effective estate planning for your client's surviving pets

By Kathryn Karr, Oregon Humane Society Planned Giving Program Manager

Kathryn Karr has seventeen years of development experience in higher education, social services, and animal welfare. At the Oregon Humane Society, she manages Friends Forever™, a care of surviving pet program for those who have included OHS in their estate plan. At home, she has two OHS alums.

The bond between pets and their people is strong and lasting, which leads many to want to include pets in their estate plan. Reportedly, Oprah Winfrey's estate plan includes $30 million to provide for her dogs, but one does not have to be wealthy to make a secure plan for a pet's future.

When devising a plan that includes a provision for pets, estate planners may immediately think of pet trusts. Although pet trusts are appropriate in some situations, the Friends Forever program at the Oregon Humane Society (OHS), offers an alternative. In return for a bequest to the OHS, the organization will immediately receive, care for, and rehome any surviving pets.

Pet trusts

In 1990, the first pet trust statute was detailed in section 2-907 of the Uniform Probate Code. UPC 2-907 was amended in 1993 to allow the trust to take effect upon the death of the pet owner. In 2000, UPC 408 was passed to allow the trust to take effect during the pet owner's lifetime, with added safeguards for the use of designated funds.

In Oregon, pets were and are considered personal property and are subject to probate. OHS championed Oregon Senate Bill 601, which was enacted into law in 1999 and allows pets valued under $2,500 to be removed from probate and immediately taken into custody.

Oregon's pet trust (ORS 130.185) was enacted in 2005. Provisions of the law:

- Support of one or more domestic or pet animals that survive the testator. Oral or written declarations will be liberally construed. However, the intent must be clear; precatory wording will be ignored.
- An enforcer may be designated in the will or appointed by the court, and payment to the individual is allowed.
- Property of the trust is to be distributed upon termination of the trust. Should the settlor not be living, the property is to be distributed to the settlor's "successor in interest."
- Unless the trust specifies, no fees, reports, registration, or accounting are required.

A pet trust (stand-alone or statutory) may not be the best option for many clients. Pet trusts are appropriate if there are multiple pets, pets with long life expectancies (such as parrots), significant ongoing medical or boarding fees, or if other family members are expected to be resistant to the provisions of the will. Problems arise if the named pet guardian is not aware of or refuses responsibility for the animal.

If the trust is silent regarding a trustee, the court may name a trustee and require payment to the trustee resulting in additional costs to the estate. In addition, there may be negative tax implications for the caretaker of the animal(s).

In any situation, it is advisable that your clients are instructed to:

- Create a carefully thought-out written plan. Define the pet(s) to be covered and document vital information about the pet(s).
- Keep the plan current and regularly update as changes occur.
- Distribute copies of the written plan to affected parties and share with those who can help implement the plan, such as a pet sitter, veterinarian, or neighbor.

Bequests

Pet owners cannot bequeath money directly to pets because pets are not recognized as valid beneficiaries. Individuals may bequeath animals to a specific individual along with funds for the animal's care. However, with no detailed care instructions or enforceability, this option has its downside. The named individual may refuse the bequest or have pre-deceased the owner.

Continued on page 7

Pets *Continued from page 6*

Though some individuals make OHS the primary beneficiary of their pets, others have individuals who would like to step in. When making a written plan, a primary concern is to identify the individual who has agreed to take immediate custody of the animal(s). Sometimes this individual may be readily identified—such as a family member, neighbor, or friend—to receive any surviving pet(s). In other cases, OHS may be the appropriate primary beneficiary. It is also common for OHS to serve as the contingent beneficiary for surviving pet(s). With OHS as a back-up plan, this accommodates for changing circumstances due to the passage of time. Primary beneficiaries of the pets have expressed their relief knowing that a back-up plan exists for when a pet is unable to integrate into a household.

The *Friends Forever*™ program

Oregonians hold companion animals in high esteem and are eager to provide for their welfare in all eventualities. If the pet owner does not want the complexity of a pet trust or the burden of changing the will each time updates are required, Oregon Humane Society's cost-effective *Friends Forever* program is available to all. Whether your client's beloved companion is a dog, cat, bird, rabbit or other pet, OHS can help plan for its welfare. The unique program assists in making a vital plan to ensure a surviving pet's care and welfare. The concept is straightforward: a gift from the estate is made to the Oregon Humane Society, OHS promises to immediately receive, care for, and find loving homes for the pets.

The *Friends Forever* program is specific to OHS, which is an independent organization not affiliated with any other local or national organizations. OHS is located in Portland, but geography is not a limitation, and pets are enrolled from across the west coast and beyond.

There are no limitations due to age or health, and it is common that pets received through the *Friends Forever* program are elderly. Pets arrive with their personal effects—e.g., their favorite toys and beds—and these items create care packages to go with them to their new homes. Upon arrival, they are examined by a veterinarian, and OHS carefully follows the care instructions provided by their person. They are assigned a volunteer "pet pal" who ensures they receive love and enrichment activities every day they are at OHS.

The steps to enroll in the *Friends Forever* program are:

- Plan a gift to the Oregon Humane Society. While a generous gift is encouraged, no minimum contribution is required.

  Be aware that there are a variety of organizations who have a similar name to OHS, such as Humane Society of the United States (HSUS) or county animal services which can be referred to as the Humane Society. Inclusion of the full name of the Oregon Humane Society as well as the tax ID number is recommended to make certain that assets and pets are distributed to the correct organization. A bequest to OHS may be designated, or restricted, to a specific fund or program.
- Complete the pet enrollment form.
- Complete a pet profile form for each pet to be enrolled. The pet profile form is a comprehensive four-page questionnaire that covers essential details for placing the pet in a loving home. It is essential to detail the day-to-day care requirements for each pet, including description, age, gender, medication, health issues, routine care requirements, habits, preferences, and handling issues. In addition, it is desirable to document the pet's behavior toward strangers, children, and other animals.

Communication between OHS and the client and/or attorney is vital. The best outcomes happen when the attorney is a key partner with the *Friends Forever* program to ensure the welfare of all surviving pets.

Barbara and Sondra: a contrast

Barbara and Sondra had average-size estates, and their cats were beloved family members. While these two women had many commonalities—for example, they both had attorneys craft their respective wills— the way their plans were implemented after their deaths is a study in contrast.

Both women included OHS as a beneficiary of their estates. Barbara included a provision that her cats would be enrolled in the organization's *Friends Forever* program. Although Sondra left her entire estate to OHS, she did not make specific mention of the cats. It appeared she wanted OHS to receive and care for her cats, but she did not record any information or instructions regarding their care.

After making OHS a beneficiary of her estate, Barbara had completed the Friends Forever pet enrollment and pet profile forms and promptly returned the paperwork to OHS.

Continued on page 8

Pets *Continued from page 7*

After their elderly owner died, cats Sweetie and Tinkerbelle found a new home.
For more information about the OHS Friends Forever program, see http://legacy.oregonhumane.org/friends-forever

Upon her death in February of 2019, OHS was notified within 24 hours, received the cats, and immediately put Barbara's instructions into action. Her cats were Sweetie, a 17-year-old whose diabetes had been poorly managed as Barbara's own health failed. He was bonded with Tinkerbelle, a 12-year-old Manx. It took two months of medical attention to stabilize Sweetie's blood sugar and health. And adopting out a bonded pair takes a bit longer than a singleton; but, on June 14, they found their new home.

Sondra included a similar provision in her will. Unfortunately, neither she nor her attorney communicated the plan to OHS. When Sondra died in April 2019, OHS was notified by Sondra's friend that five cats were to come to OHS. Over nine weeks, OHS personnel caught 22 cats on Sondra's property, and a neighbor said that others remain at large. It was not clear which were the five cats the friend had reported. This is probably not the outcome Sondra would have wanted for her beloved felines. ■

Elder Law Section News

On Friday, May 3, 2019, the 17th annual Oregon State Bar Elder Law Section UnCLE was held at the Valley River Inn in Eugene. Elder law practitioners had the opportunity to get together for a day-long session of brainstorming, networking, and the exchange of ideas and forms.

Topics ranged from estate planning to guardianship to Medicaid to practice management. It was a unique day of sharing among colleagues. We limited registration to 80 to maximize benefits of small-group discussions, and attendance was full.

Vendors on hand included NW Retirement Professionals, Home Instead Senior Care, and Threadgill Memorial Services.

Thanks to all who participated and facilitated!

NEXT: The Elder Law Section CLE committee is planning our annual CLE for Friday, October 4, at the Multnomah Athletic Club in Portland. This year we will focus on more in-depth topics. Watch for registration notices in the next few weeks. ■

Photos from unCLE sessions provided by Penny Davis.

Resources for elder law attorneys

Events

Mandatory Abuse Reporting for Oregon Lawyers
Oregon State Bar Center, Tigard
Also available as live webcast
Friday, September 6, 2019
Noon–1:00 p.m.
https://ebiz.osbar.org/ebusiness/ProductCatalog/Product.aspx?ID=2440

Income and Estate Tax Planning with Beneficiary Designation Assets
Wednesday, September 18, 2019
Noon–1:30 p.m.
Red Star Tavern, 503 SW Alder, Portland
Sponsored by the OSB Taxation Section
https://ebiz.osbar.org/ebusiness/ProductCatalog/Product.aspx?ID=1957

Elder Law Section annual CLE Program
Friday, October 4, 2019
Multnomah Athletic Club, Portland

NAELA 2019 Summit
November 14-16, 201
Washington, D.C.
https://www.naela.org/Summit

Websites

Elder Law Section website
https://elderlaw.osbar.org
The website has links to information about federal government programs and past issues of the Section's quarterly newsletters.

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

National Center on Law and Elder Rights
https://ncler.acl.gov
Trainings and technical assistance on a broad range of legal issues that affect older adults

OregonLawHelp
www.oregonlawhelp.org
Helpful information for low-income Oregonians and their lawyers

Aging and Disability Resource Connection of Oregon
www.ADRCofOregon.org
Includes downloadable *Family Caregiver Handbook*, available in English and Spanish versions

Administration for Community Living
https://www.acl.gov
Information about resources that connect older persons, caregivers, and professionals to federal, national, and local programs

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

American Bar Association Senior Lawyers Division
For elder law attorneys age 62+
https://www.americanbar.org/groups/senior_lawyers/

National Elder Law Foundation
http://www.nelf.org
Certifying program for elder law and special-needs attorneys

National Center on Elder Abuse
https://ncea.acl.gov
Guidance for programs that serve older adults; practical tools and technical assistance to detect, intervene, and prevent abuse

Elder Law Marketing 101
https://blog.eldercounsel.com/elder-law-practice-marketing-101
This blog from eldercounsel.com suggests ways to attract and retain elder law clients.

Multnomah County Senior Law Project
https://oregonlawhelp.org/organization/senior-law-project Free half-hour legal consultations with attorneys at Multnomah County Senior Centers ■

Publications

Advance Directive: Your Life. Your Decisions – with the KEYConversations™ Planning Guide
https://www.oregonhealthdecisions.org/product/advance-directive-your-life-your-decisions-with-the-keyconversations-planning-guide-english-version/

Guide to Transportation for Seniors
A helpful, visual guide to getting older and getting around
https://www.seniorliving.org/research/transportation-guide/

Guardianship and the Right to Visitation, Communication, and Interaction
Legislative fact sheet from the American Bar Association Commission on Law and Aging
https://www.americanbar.org/content/dam/aba/administrative/law_aging/2018-05-24-visitation-legislative-factsheet.authcheckdam.pdf ■

Important elder law numbers

as of
July 1, 2019

Supplemental Security Income (SSI) Benefit Standards	Eligible individual ..... $771/month Eligible couple..... $1,157/month
Medicaid (Oregon)	Asset limit for Medicaid recipient ..... $2,000 Long term care income cap..... $2,313/month Community spouse minimum resource standard ..... $25,284 Community spouse maximum resource standard . ..... $126,420 Community spouse minimum and maximum monthly allowance standards..... $2,113.75/month; $3,160.50/month Excess shelter allowance ..... Amount above $634.13/month SNAP (food stamp) utility allowance used to figure excess shelter allowance ..... $436/month Personal needs allowance in nursing home ..... $63.10/month Personal needs allowance in community-based care..... $172/month Room & board rate for community-based care facilities..... $599/month OSIP maintenance standard for person receiving in-home services ..... $1,271 Average private pay rate for calculating ineligibility for applications made on or after October 1, 2018..... $8,784/month
Medicare	Part B premium ..... $135.50/month* Part D premium ..... Varies according to plan chosen Part B deductible ..... $185/year Part A hospital deductible per spell of illness..... $1,640 Skilled nursing facility co-insurance for days 21–100 ..... $170.50/day * Premiums are higher if annual income is more than $85,000 (single filer) or $170,000 (married couple filing jointly).

Oregon State Bar

Elder Law Section

Newsletter Committee

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

Editor:
Carole Barkley ..... carole424@aol.com; 503.224.0098

Committee Members:
Monica Pacheco, Chair ..... monica@dcm-law.com; 503.364.7000
Dady K. Blake..... dady@dadylaw.com; 503.249.0502
Hon. Claudia M. Burton .claudia.m.burton@ojd.state.or.us; 503.378.4621
Prof. Leslie Harris..... lharris@uoregon.edu; 541.346.3840
Leslie Kay ..... leslie.nori.kay@gmail.com; 503.335.8939
Karen Knauerhase ..... karen@knauerhaselaw.com; 503.228.0055
Barbara Smythe ..... barbara@elderlawportland.com; 503.496.5515