



Oregon Law Institute
of Lewis & Clark Law School

Estate Planning *for Protected Persons and People with Disabilities*

Today, the elderly account for an increasing percentage of the U.S. population as a result of nationwide improvements in health care, nutrition, and general living conditions. The “oldest old,” those aged 85 and over, make up the fastest growing segment of the population. This trend towards an elderly population explosion poses a variety of challenges to the lawyers who represent them.

This program is designed for elder-law attorneys, attorneys who represent professional and non-professional fiduciaries, trusts and estates lawyers, family lawyers, and general practitioners who represent clients who may have an impaired capacity to make decisions. It offers tools for planning for disability, as well as legal and medical perspectives on how to assess capacity.

FRIDAY, DECEMBER 1, 2006

Oregon Convention Center
777 NE Martin Luther King Jr., Blvd.
Portland, Oregon

5 General and 1 E/B MCLE Credits

SCHEDULE

8:30 LATE REGISTRATION AND DISTRIBUTION OF MATERIALS

8:55 WELCOME AND INTRODUCTION

9:00 - 10:00 **Estate Planning by Protected Persons**

- Statutory authority
- Practice tips for creating an estate plan
- Undue influence/capacity issues
- Fiduciary's role in estate plan
 - *James R. Cartwright*
 - *Garvin Reiter*
 - *Gary L. Vigna*

10:00 - 10:30 **Estate Planning in Protective Proceedings**

- Can a fiduciary arrange for a protected person to engage in estate planning?
- Estate planning by a fiduciary: Under 65 Disability Trust
- Creating a trust in a protective proceeding
 - *Richard A. Pagnano*

10:30- 10:45 BREAK

10:45 - 11:30 **Overview of Basic Tools for Planning for Disability**

The following are “voluntary” planning tools. Failure to have them in place may lead to the “involuntary” emergency tools of a guardianship or conservatorship:

- Powers of attorney
- Oregon advance directives
- POLST forms (Physician Orders for Life-Sustaining Treatment)
- Nominations of guardian and conservator
- Revocable living trusts with customized language
 - *Kristianne Cox*

11:30 - 12:00 **Tax Issues for Fiduciaries**

- Tax returns to be filed by trustees or attorneys in fact
- Tax returns to be filed by a guardian/conservator in a protective proceeding
- The information a fiduciary must collect in order to prepare the necessary returns
 - *Helen Rives Pruitt*

12:00 - 1:00 LUNCH BREAK (optional lunch at live program)

1:00 - 2:00 **Oops, I Didn't Think of That: UTC Provisions Applicable to Disability Planning**

- Notice and reporting
- Representation
- Modification
- Standing
 - *Hon. Claudia M. Burton*
 - *Susan N. Gary*
 - *Heather O. Gilmore*

SCHEDULE (cont.)

- 2:00 - 2:30 **'Til Death Do Us Part: Can a Protected Person Get Married or Divorced?**
- Fundamental rights of a protected person to marry or divorce
 - Legal and practical considerations in dissolution proceedings involving protected persons, their guardians, and legal counsel
– *Julia M. Hagan*
- 2:30 - 2:45 BREAK
- 2:45 - 3:45 **Legal and Medical Perspectives on Capacity Assessments in a Law Practice—When and How?**
- Trends in capacity assessment, including a discussion of the 2005 ABA/APA joint publication *Assessment of Older Adults with Diminished Capacity: A Handbook for Lawyers*, the recent California development of a lawyer providing a “Certificate of Independent Review,” and *Bernard v. Foley* (California Supreme Court 8/21/2006), a trust amendment challenge
 - The role of medical professionals in determining capacity, including when to refer, what assessment tools are used, and what complicates the process
– *Cynthia L. Barrett*
– *Kevin R. Smith, M.D.*
- 3:45 - 4:00 **Questions and Answers**
- 4:00 ADJOURN

Program Faculty

Cynthia L. Barrett

Cynthia L. Barrett P.C.

Hon. Claudia M. Burton

Marion County Circuit Court

James R. Cartwright

Cartwright & Associates

Kristianne Cox

Attorney at Law

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LIVE PRESENTATION

Portland – 12/1/06

Oregon Convention Center
777 NE MLK Jr. Blvd.

MCLE CREDIT

*Estate Planning for Protected Persons
and People with Disabilities* will receive
5 General and **1** Elimination of Bias
MCLE credits.

PROGRAM PRODUCTS

Even if you cannot attend, you can still get the program on audiotape, videotape, CD or DVD. Use the order form in this brochure to order your set today! OLI Annual Passholders may purchase OLI program products at 50% off the full retail price.

QUESTIONS?

Please call OLI at (503) 768-6580 in Portland or toll-free in Oregon at (800) 222-8213, e-mail us at oli@lclark.edu; or visit our Web site at www.lclark.edu/org/oli.

VIDEO REPLAYS

Please register at least one week prior to the replay date.

Bend – 12/15/06

Replay 8:30 a.m.
Bryant Lovlien & Jarvis
591 Mill View Way

Eugene – 12/8/06

Replay 8:30 a.m.
Harrang Long Gary & Rudnick, P.C.
360 East 10th Avenue, Ste. 300

Medford – 12/8/06

Replay 8:30 a.m.
Kellington, Krack, Richmond,
Blackhurst & Glatte, LLP
23 Newtown Street

Portland – 12/20/06

Replay 9:00 a.m.
Oregon Law Institute
Gus J. Solomon Courthouse,
620 S.W. Main St., Suite 706

REGISTRATION / ORDER FORM
Estate Planning for Protected Persons
and People with Disabilities

Friday, December 1, 2006

Name _____ OSB No. or Profession _____

Firm/Organization _____

Street Address _____ City/State/Zip _____

Phone _____ Fax _____ E-Mail _____

Please "✓" appropriate box below:

Live presentation

Video replay. Location: _____ Date: _____
Please register at least one week prior to the replay date.

TUITION *(Prices apply to live and video replays.)*

- \$159 "Early Bird" tuition *(received by November 27, 2006).*
- \$119 "Early Bird" tuition for new attorneys (admitted 2005–2006), paralegals, or secretaries *(received by November 27, 2006).*
- \$80 Legal aid attorneys and judges *(received by November 27, 2006).*
- \$15 OLI Annual Pass holder (Annual Pass No. _____).
- \$20 Add to above tuition if registration received *after November 27, 2006.*

OPTIONAL LUNCH AT LIVE SEMINAR

- \$20 Add to above tuition
- Vegetarian Dietary restrictions: _____

PRODUCT ORDER

I am unable to attend. Please send me:

- \$179 Audiotapes and course book *or* \$179 Audio CDs and course book
- \$299 Videotapes and course book *or* \$299 DVDs and course book
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- Deduct 50% from order if you are an OLI Annual Pass holder (Pass No. _____)
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**QUESTIONS? Call (503) 768-6580 or (800) 222-8213.
Check out our website at www.lclark.edu/org/oli
or email us at oli@lclark.edu.**

CONFIRMATION: Confirmation will be sent via e-mail or fax one week before the program.
CANCELLATION POLICY: Tuition minus a \$20 handling charge will be refunded if the cancellation request is *written and received* by Tuesday, November 28, 2006.
NEED ASSISTANCE: If you are a person with a disability, please let OLI know in time to make any necessary accommodations for you.
TUITION ASSISTANCE: A limited number of scholarships are available based on financial need. Contact OLI.