



## Elder Law Advisor

October 2012

### I'm trustee of a special needs trust, do I ever need to review the trust document?

By: Attorney Mark D. Munson, CELA

Yes, and it may be a good idea to have a qualified special needs trust attorney review it as well. Recently, the Social Security Administration changed its interpretation of its regulations. Expenses of family members to visit the beneficiary, which previously were an example of an allowable payment from a special needs trust, are now considered an improper distribution. In some states, including Wisconsin, as part of SSA annual reviews, SNT trust beneficiaries have been found ineligible to continue to receive SSI (Supplemental Security Income) payments until their SNT is revised to eliminate these and other now offending provisions. In some cases, it may be necessary to have the special needs trust reformed in order to comply with the new regulations.

### How does Wisconsin treat an Alzheimer's sufferer when committed to a care facility?

By: Attorney Nick Heike

In the past, Wisconsin would often treat individuals suffering from Alzheimer's-related dementia as capable of rehabilitation. As a result, such individuals were prone to involuntary commitment in facilities that specialize in rehabilitation and treatment of curable conditions, such as drug addiction or treatable mental illness. These facilities typically do not provide the individual with long-term care options, which could lead to frequent court intervention and greater restriction on the individual's personal freedom.

A recent Wisconsin Supreme Court decision has changed the way many Alzheimer's sufferers will be treated in the state. The Court ruled that Alzheimer's may be considered a permanent disability that is not capable of rehabilitation. Therefore, commitment of individuals suffering with the disease will allow them to fall under a different standard of the law, permitting them to stay at a long-term care facility that is the least-restrictive on their freedom. In addition, an individual committed to the facility would have access to a Guardian ad Litem, who is a court-appointed attorney representing the individual's best interests. Though the previously used commitment methods may still be applied in certain cases, this recent Court decision remains a large victory for Alzheimer's sufferers and it should have a similar effect for individuals suffering from other debilitating mental diseases that are not successfully treatable by today's medicine.

Save the Date:

Protect Your Assets: Medical Assistance & Long-term Care Planning Seminar

Eau Claire: November 15, 2012 @ America's Best Value Inn

Wausau: November 14, 2012 @ Holiday Inn & Suites

Visit [www.ruderware.com](http://www.ruderware.com) for details.



## Around the State

**Jane Lokken** and **Mark Munson** recently attended the Wisconsin NAELA board of directors meeting.

**Jane Lokken** attended the State Bar of Wisconsin's Elder Law Section board of directors meeting and its "Legal Issues of Aging" seminar

**Mark Munson** was recently elected to the board of directors for WisPACT.

**Nick Heike** attended the Medicaid Update 2012 seminar sponsored by the National Business Institute.

### Attorney Nick Heike



Nick has five years of experience in estate planning, business counseling, and banking law. He will continue to work with businesses and individuals, providing counsel on the formation and operation of businesses of varying sizes in addition to reviewing contracts and assisting with business transactions. Nick's work with individuals will primarily consist of personal planning in the areas of asset protection and estate planning.

### Attorney Jane Lokken



Jane Lokken joined the firm in 1987 after graduating from the University of Wisconsin Law School. She practices extensively in the probate, trust administration, and real estate areas.

Her estate planning practice focuses on the elderly, and she is current chair of the Elder Law Section of the State Bar of Wisconsin. Jane is listed in the 2012 edition of Best Lawyers in America® for Elder Law.

Jane has worked with a number of clients to develop specialized limited liability companies to own recreational real estate and meet the clients' objectives of maintaining control during their lifetimes and an orderly, creditor-free transition to the next generation.

### Attorney Mark Munson, CELA



Licensed to practice law in Wisconsin, Illinois and South Dakota, Mark Munson principally advises clients in the areas of elder law, public benefits (including special needs trusts), estate and trust planning, and taxation. Mark regularly advises clients in the areas of asset protection and medical assistance eligibility. Mark also assists clients with probate and estate administration, trust administration and guardianship.

Mark is a Certified Elder Law Attorney (CELA) by the National Elder Law Foundation, the only organization accredited by the American Bar Association for the certification of elder law attorneys in the United States. In order to become a CELA, Mark was required to have sufficient experience in various practice areas with the field of elder law, pass an all-day comprehensive examination that tests various issues and disciplines within elder law, and receive the recommendation of other elder law attorneys in Wisconsin and the United States.

Elder Law Services offered by Ruder Ware include:

- Nursing home and long-term care planning
- Asset protection
- Gifting and divestment planning
- Medicare and Medicaid benefits
- Social Security benefits
- Insurance analysis (including long-term care insurance)
- Residential housing and other living options
- Planning for individuals with special needs
- Tax planning
- Durable powers of attorney for property and finances
- Health care powers of attorney
- Wills
- Trusts
- Marital property agreements
- Real estate
- Guardianship
- Conservatorship
- Veterans' benefits

Attorneys Practicing Elder Law

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