

Elder Law Advisor



January 2011

Welcome to the inaugural issue of the Elder Law Advisor, a quarterly newsletter addressing current elder law issues written by attorneys who regularly provide counsel in this changing area of law.

What is Elder Law?

By: Mark D. Munson, CELA

Elder law is the practice of providing legal advice and services to elderly individuals and their families on issues that regularly affect their lives.

These issues include:

- Estate planning
- Public benefits
- Veterans' benefits including eligibility planning and asset protection
- Special needs planning and trusts for disabled individuals
- Guardianship
- Taxation
- Retirement benefits
- Abuse, neglect and financial exploitation
- Housing issues, including nursing home contracts and resident rights

Changes in Wisconsin's Durable Power of Attorney Law

By: Jane E. Lokken

The Wisconsin Legislature recently created a new statutory financial durable power of attorney ("DPOA") form and substantially changed the provisions applicable to DPOAs. In a DPOA, you give an agent, who may be a relative, friend, or a third party such as a trust department, authority to make legal and financial decisions for you. This authority may start when you sign the DPOA without affecting your ability to continue making your own decisions, or the authority may spring into existence when you are incapable of handling your affairs. "Durable" means the document is effective while you are incapacitated.

It is not necessary to use the statutory form. A DPOA drafted by an attorney to fit your personal financial and family situation, which gives

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your agent more flexibility than the statutory form to make the decisions you want, is better. Without a DPOA, if you are unable to make your own decisions, a court appointed and supervised guardian of the estate will make your financial decisions according to standards Wisconsin law says are in your best interest. A DPOA, and its partner, the power of attorney for health care, are vital advance directive documents for everyone age 18 or older.

POAs executed before the September 1, 2010, effective date of the new law are still effective. If your DPOA is more than 10 years old, or if your health situation or your named agent's situation is changed, consider making an appointment with one of Ruder Ware's Estate Planning attorneys to discuss a new financial durable power of attorney.

Attorney Mark Munson



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.

Attorney Jane E. 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 a past chair of the Elder Law Section of the State Bar of Wisconsin. Jane is listed in the 2011 edition of Best Lawyers in America® for Elder Law.

In recent months, Jane 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.

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