



NAELATM News

National Academy of Elder Law Attorneys • Volume 19 • Issue 3 • 2007

Pattie Dudek *Champion* for the DISABLED



Also Inside:
Use of Pooled Trusts for
Nonmarital Domestic Partners
Detailed Trust Checklist
NEALA in Hawaii

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SR-PAC Luau May 15, 2008

Come join us on the Sunset Terrace on Ka'anapali Beach at the Hyatt Regency Maui Resort & Spa. We will be celebrating in authentic Hawaiian tradition with a cast of 18 dancers and musicians performing songs and dances of their Polynesian ancestors from through out the South Pacific. You will also enjoy native crafts and customs including the unearthing of the freshly roasted pig from the Imu. Be sure not to miss the thrilling Fire Knife Dance finale!



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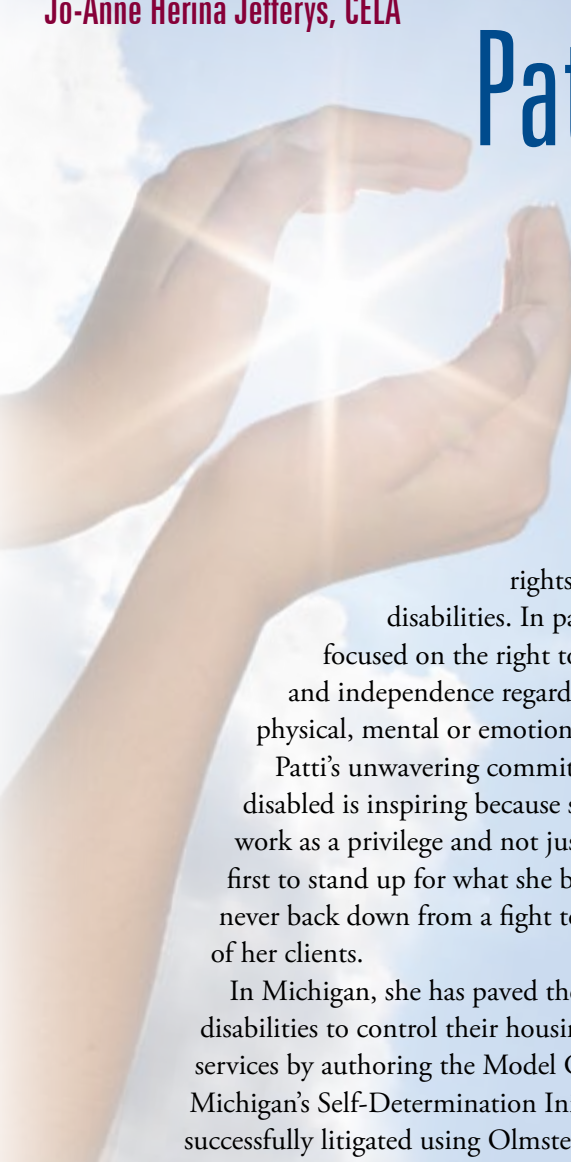
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Articles appearing in the *NAELA News* may not be regarded as legal advice. The nature of Elder Law practice makes it imperative that local law and practice be consulted before advising clients. Statements of fact and opinion are the responsibility of the author and do not imply an opinion or endorsement on the part of the officers or directors of NAELA unless otherwise specifically stated as such.

Jo-Anne Herina Jefferys, CELA

Pattie Dudek

A Champion for the Disabled



Patrica E. Kefalas Dudek, better known as Patti, is known for her passion in fighting for the rights of people with disabilities. In particular, she has focused on the right to self-determination and independence regardless of one's physical, mental or emotional limitations.

Patti's unwavering commitment to the disabled is inspiring because she views her life's work as a privilege and not just a job. She is the first to stand up for what she believes in and will never back down from a fight to improve the lives of her clients.

In Michigan, she has paved the way for those with disabilities to control their housing and support services by authoring the Model Contracts for Michigan's Self-Determination Initiative. She has also successfully litigated using Olmstead to garner least restrictive housing options for many of her clients. Patti has also established Michigan's first Pooled Trust for Medicaid Planning. These are but a few examples of Patti's many victories.

Patti is also a major contributor to NAELA, encouraging members to expand their practices to include disability issues. She began her legal career working for the ARC (formerly the Association of Retarded Citizens), advocating for special education students in their Individualized Educational Planning Committee meetings.

She used that background and her subsequent years in private practice to prepare extensive written materials to go along with her keynote address at the NAELA 2006 Institute in Salt Lake City. She outlined ten subject areas related to disability NAELA members could incorporate into their law practices. (Her 223 pages of very valuable materials titled

"Expanding Your Practice To Include Disability Issues" can be downloaded from the NAELA Web store for \$20.00.)

Patti encourages us to understand that these new disability subject areas aren't without application to existing areas of practice: housing, medical advocacy, surrogate decision-making, avoidance of abuse and neglect.

Patti's zealous advocacy, compassion and creativity contribute to her success in helping those challenged. Her enthusiasm will also help NAELA and its members move into the expanded mission of enhancing the lives of people with special needs and people as they age.

She outlined ten subject areas related to disability NAELA members could incorporate into their law practices. (Her 223 pages of very valuable materials titled "Expanding Your Practice To Include Disability Issues" can be downloaded from the NAELA web store for \$20.00)

JO-ANNE HERINA JEFFREYS, CELA *has been serving the elderly and their families since 1994. She has been dedicated to serving the elderly and their families and she is admitted to practice law in New Jersey, New York and Washington, DC. Ms. Jeffreys is an adjunct Professor of Law at Seton Hall University School of Law. She is past Chairperson of the Elder Law Section of the New Jersey State Bar Association and is Co-Chairperson of the Hudson County Elder Law Committee. Ms. Jeffreys formerly served the Board of Directors and has been distinguished as a Fellow of NAELA.*

Happy 20th Anniversary, NAELA!

G. Mark Shalloway, CELA



One score ago, our fore parents founded the National Academy of Elder Law Attorneys. As if my being a member of NAELA were not privileged enough, I am thrilled to serve as President for this, our milestone anniversary. This year we have much to celebrate and to accomplish. So, for an overview of my goals and issues read on. Throughout my term, I will use this column and

other forums to feature in-depth coverage on these goals, and address other projects and issues.

1. NAELA will build a strategic and comprehensive internal communications engine for our members. The prime focus will be to communicate strategically to increase member fluency on NAELA affairs. Information delivery tactics will include establishing regular and timely publishing schedules, through multiple media, available in summary and detailed formats to accommodate various interest levels and to expand message reach and effectiveness. This robust engine will drive previously passively available information to members on such topics as Academy governance and policy, finances, advocacy, Chapters, SIGs, Committees and Task Forces, member services and benefits, NELF and CAP operations.

2. NAELA will add a program to facilitate Chapter Development in addition to Chapter Establishment. The goal is to empower each Chapter to maintain a sufficient operational budget to pay for staffing and equipment needed to administer its programs and functions. Chapters can serve a vital role in leveraging and coordinating NAELA's efforts in 1. Public Policy and Grass Roots Advocacy, 2. Leadership Cultivation, 3. Public Relations and 4. Practice Management/Development

3. NAELA will adopt and deploy a High-Stakes Assertive Communications Program. This initiative is designed to connect the interests of our clients who are elderly or disabled together with the interests of the Academy and its members against unfair attacks. This is an important supplement to our current Public Relations program



4. NAELA will establish and enhance Revenue Development Programs. Select committees will explore the viability and appropriateness of grants, major gifts, planned giving, foundations, advertising and underwriting/sponsor programs.

5. NAELA will re-engineer Law Practice Innovation and Management, Services and Programs. This goal will be accomplished through the following constellation of activities:

- 1.** The new Communication & Information Committee, established to serve as a clearinghouse of information, to manage the Technology/Web committee, and to develop an integrated and dynamic e-database of law, regulation, PR and Grass Roots works, practice management/development materials
- 2.** SIG and Program Reform (Pod-Casts, Webinars).
- 3.** Coalition cultivation with either new interests such as the housing and lending industries or new representatives from such fields as in long-term care insurance, for example.

Now is the time for us to reflect, assess, plan and rededicate ourselves to those values and works we hold important over the next twenty years. Gratitude comes easily and in great abundance when I think of those past leaders and members who have given their time and talents: Our true success lies not in the number alone. (We approach 5000 members, operate through 46 committees, SIGs and taskforces with a budget and reserves near 3 million dollars.) Our true success is found in our common cause: "Doing Well by Doing Good" our NAELA compass. We may stray, but not lose our way.

My very Best wishes,

G. Mark Shalloway
NAELA President

Use of Pooled Trusts for Nonmarital Domestic Partners

For a heterosexual couple, spousal impoverishment protections, under the 42 U.S.C. 1396r-5 (community spouse resource and minimum monthly maintenance needs allowances) protect the community spouse from becoming impoverished. These same protections do not exist for unmarried domestic partners. This has forced members of the lesbian, gay, bisexual and transgender (LGBT) community into many undesirable situations and limited planning options, particularly in the arena of government benefits planning when one partner suffers from a disability. A Pooled Trust (PT) can provide some relief for a disabled partner in the LGBT community.

PTs are authorized by Subsection (d)(4)(C) of 42 U.S.C. 1396p. PTs are trusts set up by a non-profit organization for the purposes of distributing and overseeing funds to be used to assist disabled beneficiaries of the trust. PTs are useful to the LGBT community because the (d)(4)(C) statute which creates them does not offer any special status for heterosexual marriages.

PTs are also useful to the LGBT community in how they may be disbursed after the death of the beneficiary. When the beneficiary of the trust account passes away, the portion of funds left in the trust account may be used to benefit persons with disabilities who are similarly situated to the decedent beneficiary. This means that the funds may be used in any way that will benefit those persons, not only directly, but also indirectly, by financing civil rights litigation that affects the rights of those persons, or supporting advocacy works for their benefit. Once any payback provision has been fulfilled, the remaining funds may be designated by the PT grantor to be used in a specific way (to help people with HIV, people with dementia etc.), or may be used for the benefit of a specific individual with a disability (a loved one, or family member of the original grantor).

PTs are special needs trusts created for the purpose of assisting persons with disabilities who are beneficiaries

of the trust to improve their quality of life and care. To ensure that the funds do not disqualify the beneficiary from obtaining needs-based government benefits, the trust should not be used to fulfill basic needs, such as paying for food and shelter, these things should be paid for with the government benefits. A PT can only be established by a non-profit organization. The sub-accounts of a PT must be set up for the benefit of persons with a disability who are current or prospective recipients of SSDI, Medicaid or SSI. A person is considered to have a disability “if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months” 42 U.S.C. 1382c(a)(3). Under this

definition, a person with HIV or AIDS may qualify as a person with a disability. To qualify, they must additionally have a condition listed in §14.08 of the Social Security Administration Blue Book (SSA Pub. No. 64-039). It can be found at <http://www.ssa.gov/disability/professionals/bluebook/AdultListings.htm>.

There are two types of sub-accounts within a PT. It is how the trust is funded and what happens to the funds after the death of the beneficiary that distinguishes the two. The first type of PT is a first-party trust which is funded by the beneficiary's own finances. A first-party or self-funded trust allows for payback provisions to apply after the death of the beneficiary. This means that the trust will have to pay back the State with any remaining funds for the government benefits provided to the beneficiary while he or she was alive. If any money remains in the sub-account, the charity that is operating the trust and/or acting as trustee has the first right to retain

remaining funds before the State receives any payback. The funds retained by the charity are often used to assist other beneficiaries of the PT, or to pay for the costs of maintaining the trust. Once all payback provisions have been fulfilled, then what is left over, if anything, will be distributed to the

When the beneficiary of the trust account passes away, the portion of funds left in the trust account may be used to benefit persons with disabilities who are similarly situated to the decedent beneficiary. This means that the funds may be used in any way that will benefit those persons, not only directly, but also indirectly, by financing civil rights litigation that affects the rights of those persons, or supporting advocacy works for their benefit.

Andrea M. Anderson
Sanford J. Mall, JD, CELA

designated beneficiary. The beneficiary may designate that the remainder be distributed in any way he or she chooses, including giving it to specific individuals or groups.

The second type of sub-accounts within a PT is a third-party trust, which does not require the trust to refund the State for government benefits received by the beneficiary while he or she was alive. A third-party trust is funded with assets belonging to someone other than the beneficiary with special needs. Anyone may set up a sub-account in a PT for the beneficiary. The charity operating the PT may again have provisions allowing it to retain a portion of any remainder once the beneficiary has passed away. The funds remaining after the charity has received its portion will be distributed as instructed by the donor. The donor may instruct that the remainder be distributed in any way he or she chooses.

PTs can be used to benefit the LGBT community in multiple ways. The most obvious is that the trust can be used to benefit a lesbian, gay, bisexual or transgender person during his or her lifetime if they are disabled. A person with a disability from the LGBT community may set up a PT or a third person may set up the PT for him/her. During the lifetime of the beneficiary, the funds in the trust will be used for his or her benefit to provide care and financial support. It can help them secure Medicaid assistance for the home waiver and long term care programs.

For LGBT couples in a relationship that is not legally recognized, the spousal protection provisions of means-tested programs such as Medicaid do not apply. This means that if one LGBT

partner is disabled and needs expensive care then all of assets of the partner with a disability must be spent down to the proper amount before he or she can qualify for the benefits, regardless of the needs of his/her partner. If the partner with a disability maintains most of the assets in his or her name, spending down the assets to qualify for government benefits will likely leave the able partner impoverished, or at the very least force him/her to live well below his/her usual level of comfort. The use of a PT may help alleviate some of the financial stress of this situation. If the partner with a disability establishes a sub-account within a PT, he or she may make a caregiver contract that will pay out a particular amount to the able partner each month for caregiver services. It is likely that the able partner will be the one providing many caregiver services. Therefore, by establishing a care contract, the able partner will receive some income without disqualifying the partner with a disability from receiving government benefits.

If the LGBT community member funded his/her own sub-account within the PT, then when he/she passes away the charity will retain its portion of any remainder and the payback provisions will kick-in when applicable. After the State has been paid back as the provisions require, the charity will distribute the remaining funds, if any, as designated by the decedent beneficiary. If the decedent beneficiary left the

continued on page 8



remaining funds in the trust, he or she may provide that the funds must be used to benefit persons in the LGBT community. This means the unused funds may be used to benefit specific persons or the LGBT community as a whole. To benefit the community as a whole the funds may be used toward various LGBT causes through donation to various charities. Certain charities litigate issues for the LGBT community and as such would be using the money to benefit "similarly situated persons". These advocacy charities include the American

Civil Liberties Union, the National Center for Lesbian

Rights, the Center for Constitutional Rights, and many more.

In conclusion, PTs offer a largely untapped potential to be used for the benefit of the LGBT community. This resource should not go overlooked. In the right circumstances, a PT may help a LGBT couple survive financially if one partner becomes disabled. In other circumstances the remaining funds from a PT sub-account may provide a great benefit to the LGBT community as a whole or even to individual members of the community.

SANFORD J. MALL, CELA *Sanford is the founder and senior partner of Mall Malisow & Cooney, PC – The Holistic Estate & ElderCare Law Firm. The firm is located in Farmington Hills, Michigan with affiliate offices in Bloomfield Hills and Highland, all located in Oakland County. Mr. Mall is the Chairperson for the Elder Law & Disability Rights Section of the State Bar of Michigan and he is nationally Board Certified as an Elder Law Attorney by the National Elder Law Foundation. He was also listed in Worth Magazine as one of the Top 100 Lawyers in the country and one of only three so designated in the state of Michigan.*

ANDREA M. ANDERSON *Andrea is a law student at Wayne State University Law School. She is also an intern at Mall, Malisow & Cooney, PC. Ms. Anderson's areas of interest for future practice include Civil Rights Law, Immigration Law, and Elder Law. She intends to graduate with her J.D. in May of 2008.*

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Executive Director's Message

Susan McMahon, Esq.



In July of 2003 the NAELA Board of Directors expanded NAELA's Mission Statement to provide:

"The mission of the National Academy of Elder Law Attorneys is to establish NAELA members as the premier providers of legal advocacy, guidance and services to enhance the lives of *people with special needs and people as they age.*" (New language in *italics*).

The inclusion of individuals with disabilities in the NAELA mission is an expansion of NAELA's focus. The similarity of services needed for individuals who are aging and individuals with disabilities makes this area of the law a natural addition to an Elder Law Practice and therefore a natural area of growth for the Academy.

Since the mission was augmented in 2003, several sessions related to individuals with disabilities have been provided and NAELA Symposia and Institutes. The Trust Special Interest Group has recently changed their name to the Trust and Special Needs Trust SIG to emphasize their expansion in focus into this area.

The NAELA Board of Directors approved the 2008 to 2010 NAELA Strategic Plan which you will be hearing more about in the months to come. One of the Key Result Areas of the Strategic Plan is

"By 2010 NAELA shall have defined Special Needs Law in a way that is understood by the public and shall have established NAELA as the premier provider of educational and networking resources to the Elder Law and Special Needs Law communities."

Mark Shalloway, NAELA President, has created a Special Needs Implementation Committee chaired by Martha Brown to facilitate the development of this aspect of the academy. Martha will be looking for NAELA members with expertise in Special Needs Law to assist with this Committee's work. The Committee is assigned to

- **Establish a definition of what areas of the law are included within Special Needs Law.**
- **Prioritize among the areas of Special Needs Law for integration within NAELA.**
- **Establish an implementation plan to outline the integration of Special Needs Law within NAELA.**
- **Survey NAELA members to identify those with expertise in all areas of Special Needs Law and its subspecialties.**
- **Recommend to NELF that they assess the appropriateness of establishing an advanced certification for Special Needs Law.**
- **Implement a Program strategy for education of NAELA members in the areas of Special Needs Law.**
- **Implement a Public Relations strategy relative to Special Needs Law.**
- **Identify and establish the coalitions which are needed to advance NAELA's Special Needs Law agenda.**

This is an exciting opportunity for NAELA and NAELA members. Given the wide-ranging nature of the Committee's tasks, there will be opportunity for contributions from other interested NAELA members. If you want to assist in the process please send Martha Brown a written or electronic description of your background in special needs law and an idea of which of the Committee's tasks seems the best match for your background. Martha's fax number is (314) 962-1298 and her e-mail is mcbrown@elderlawstlouis.com.

Detailed Trust Checklist

Patricia E. Kefalas Dudek, Esq.



This checklist has been developed in order to assure that beneficiaries of special needs trusts access all community resources available to them. This is a work in process. Many programs are available nationally; some are state or county specific. Please forward any additional resources that you think

should be included in the list. Any updates and revisions to this list will be shared with all. Comments related to the usefulness of particular programs are helpful as well. Please submit your responses to pdudek@hshcdlaw.com.

For space reasons, some of the items in Patti's master checklist have been deleted. The list contained contact information for multiple counties, and the duplicates were removed. Each checklist point contained the "Utilized: Yes, No, Reason" information section, but those were not all reproduced.

Nationally-available programs are listed, and the Michigan-specific programs are included for you to use to create a similar checklist for your own geographic area.

Lastly, Patricia E. Kefalas Dudek wants to thank her law clerk, Amanda Filizetti, for her hard work on this project. Amanda is a third year law student at Ave Maria School of Law in Ann Arbor, MI.

SPECIAL NEEDS TRUST CHECKLIST

Prescription Drug Assistance Programs

1. Partnership for Prescription Assistance (www.pparx.com)

- ✓ Resource bank of drug company assistance plans, discount prescription cards, and state programs.
- ✓ Eligibility information is entered and available options are generated.

Utilized:

- ✓ Yes
- ✓ No

Reason _____

2. Needy Meds (www.needymeds.com)

- ✓ Resource bank of drug company assistance plans, disease based assistance, discount prescription cards, and government programs.
- ✓ This site contains information and links to available programs. Clients search by brand and generic drug name, company, disease, and state; they are then given links to the appropriate website or application.

3. Rx Hope (www.rxhope.com)

- ✓ Resource bank of government and corporate assistance plans.
- ✓ Eligibility information and drug names are entered online and options are generated.

4. Rx Outreach (www.rxoutreach.com)

- ✓ Provides reduced costs prescriptions at the rate of \$20, \$30, or \$40 for a 90-day supply. Prescriptions fall into one of three tiers and price is determined by the drug's category.
- ✓ An application is filled out annually and eligibility is determined.



Prescription Drug Assistance Programs cont'd.

5. Together Rx Access Discount Card (www.togetherrxaccess.com)

- ✓ Prescription discount card offered by 12 companies collectively. Card participants are given discounts of 25-40% on prescription drugs.
- ✓ Applicant may not have prescription coverage and may not be eligible for Medicare.
- ✓ Application filled out and eligibility is determined.

6. Merck Discount Drug Card (<http://www.merck.com/merckhelps/>)

- ✓ Offers discounts on 11 Merck drugs: Cosopt®, Cozaar®, Emend®, Fosamax®, Fosamax Plus D™, Hyzaar®, Janumet™, Januvia™, Maxalt®, Maxalt-MLT®, Singulair®, Trusopt®
- ✓ Applicant may not have prescription coverage from public or private plans. They may be eligible for Medicare Part D but have opted out.

Dental Services

1. Oakland County Discount Dental Plan

- ✓ Participants receive 20-50% discounts on most dental procedures, at participating dental providers.
- ✓ The cost is \$69 per year.
- ✓ Applicants must be residents of Oakland County.
- ✓ Application can be filled out online.
- ✓ <http://www.ocdiscountdental.com>

3. University of Michigan School of Dentistry —Adult Clinic & Urgent Care Clinic

- ✓ Provides a wide variety of dental services to the public at reasonable rates. Services are provided by supervised dental services.
- ✓ Call (734-763-6933) for appointments or information/wait could be several weeks for dental clinic appointments.
- ✓ Urgent Care Clinic is open Monday-Friday 8:00-5:00 on a walk-in basis.
- ✓ <http://www.dent.umich.edu/patients/>

Health Care Services

Macomb County

1. Macomb County Adult Benefit Waiver

- ✓ Covers visits to an assigned Primary Care Physician (PCP), referrals to specialists, referrals for outpatient diagnostic services and procedures and prescription drugs.
- ✓ Only available during open enrollment periods through Department of Human Services (DHS).
- ✓ Applicant must be a Macomb County resident, Ages 19-64, not disabled or eligible for Medicaid or other medical programs, and must meet income requirements.
- ✓ Apply at DHS office (DHS 586- 469-7700)

2. Macomb Connect Care

- ✓ Covers visits to Primary Care Physician offices, prescriptions, lab work, x-rays, medical supplies, urgent care clinics.
- ✓ Applicant must be a Macomb County Resident, Ages 19-64, an adult with no minor children, not eligible for any other medical coverage, and meet income requirements.
- ✓ Application can be downloaded online and must be mailed.
- ✓ <http://www.macombhealthplan.org/macombcareconnect.php>

3. Macomb County Breast & Cervical Cancer Screening Program

- ✓ No cost breast and cervical cancer screenings.
- ✓ Applicant must be a resident of Macomb County, ages 40-64, have no health insurance, and be low to moderate-income level.
- ✓ (586) 412-3384
- ✓ http://www.macombcountymi.gov/publichealth/HPDC/hpdc_breast_and_cervical_cancerscreen.htm

4. Macomb County Cardiovascular Disease Risk Reduction Program

- ✓ Provides education and screenings throughout the community for residents.
- ✓ Call (586) 412-3387 to find screening locations.
- ✓ <http://www.macombcountymi.gov/publichealth/HPDC/cvdrp.htm>

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5. Macomb County Family Planning Services

- ✓ Provides family planning education, counseling, cervical and breast exams, and contraceptives for Macomb County Residents.
- ✓ Fees are determined on a sliding scale.
- ✓ (586) 469-5491
- ✓ <http://www.macombcountymi.gov/publichealth/>

6. Macomb County Immunization Clinic

- ✓ Provides immunizations for adults and children
- ✓ Call (586) 469-5372.
- ✓ http://www.macombcountymi.gov/PublicHealth/ClinicServices/fhs_immunization_clinic.htm

7. Macomb County Sexually Transmitted Disease Program

- ✓ Provides confidential counseling, testing, diagnosis, and treatment of sexually transmitted diseases.
- ✓ Applicants must be age 12 or over and a resident of Macomb County.
- ✓ (586) 465-9217
- ✓ <http://www.macombcountymi.gov/publichealth/HPDC/STD.htm>

Statewide Programs

1. MARS

- ✓ This site is a resource bank of state programs.
- ✓ Applicant fills out information such as number in home, age, income, medical conditions, and an estimate of what state programs they are eligible for is generated.
- ✓ <http://www.mfia.state.mi.us/mars>

2. Medicaid

- ✓ Michigan Dept. of Community Health
- ✓ (517-373-3740)
- ✓ <http://www.michigan.gov/mdch>

3. MI Child

- ✓ This Department of Community Health program provides health and dental care to qualified applicants. Not a Medicaid program.
- ✓ There is a five dollar monthly premium for all Children in one family

- ✓ Applicants must be Michigan residents or legal immigrants, meet income requirements, and inform of any other medical insurance.
- ✓ Income requirement: The adjusted gross income must be at or above 150% and below 200% of the federal poverty level. For children under 1 year of age, the adjusted gross income must be above 185% and at or below 200% of the federal poverty level.
- ✓ Call (888-988-6300) for information and local DHS office for application
- ✓ http://www.michigan.gov/mdch/1,1607,7-132-2943_4845_4931---,00.html

2007 Federal Poverty Guidelines

Number in Family or Household

48 Contiguous States and D.C. *Does not include AK, HI*

1 \$10,210	5 \$24,130
2 \$13,690	6 \$27,610
3 \$17,170	7 \$31,090
4 \$20,650	8 \$34,570
Each + person add \$3,480	

4. Healthy Kids

- ✓ Medicaid program which provides a variety of health services including vision, dental and mental health to pregnant women, babies and children under age 19.
- ✓ Applicants must be Michigan residents or legal immigrants, meet income requirements, and inform of any other medical insurance.
- ✓ Income Requirements: Healthy Kids for Pregnant Women (185% of poverty) Healthy Kids for Children under age 1 (185% of poverty) Healthy Kids for other children (150% of poverty) (See above for federal poverty guidelines)
- ✓ Call (888-988-6300) to determine eligibility.
- ✓ <http://www.michigan.gov/mdch>

5. MI Department of Community Health Breast & Cervical Cancer Control Program

- ✓ Provided through the MDCH. Provides screening and treatment.
- ✓ Call (800-922-MAMM) for local providers.
- ✓ http://michigan.gov/mdch/0,1607,7-132-2940_2955-13487--,00.html

Nutrition Services

1. Bridge Card/Food Stamps & Cash Benefits

- ✓ Electronic Benefits Transfer Card (EBT)
- ✓ Obtained through DHS and provides food/cash benefits to recipients.
- ✓ Application may be printed online but must be completed and taken to the local DHS office. The applicant will then be assigned a DHS specialist who will lead them through the application process.
- ✓ The card is just like a debit card and food/cash benefits are made available according to the benefits schedule..
- ✓ (800-481-4989); Apply at local DHS
- ✓ http://www.michigan.gov/dhs/0,1607,7-124-5455_7034---,00.html

2. Oakland County Meals-on-Wheels

- ✓ Provides home delivered meals to homebound individuals and senior citizens who are unable to prepare meals for themselves due to physical or mental impairments related to age and medical condition.
- ✓ Call (248-288-3311) for service

Heat and Utility Services

1. Consumer's Energy Budget Plan

- ✓ Allows customers to spread out annual energy costs into equal monthly payments.
- ✓ The plan begins June 1 each year and runs through May 31.
- ✓ (800-477-5050); www.consumersenergy.com

2. Winter Protection Plans

- ✓ Protects seniors and low income customers from utility shut off and high winter payments. Consumer's Energy, DTE & SEMCO are participants.
- ✓ Participants will not be shut off if they pay at least 6% of their estimated annual bill each month plus 1/12 of any past due bills.
- ✓ Applicants must meet one of the following: 62 years+, receive DHS cash assistance, food stamps, Medicaid, or meet income requirements.
- ✓ Contact Michigan Gas Utilities (800) 401-6402

3. Gas Payment Arrangements

- ✓ Michigan Gas Utilities can help customers who have past due balances arrange for repayment and avoid shut off.
- ✓ Customers must have a Michigan Gas Utilities residential account, have a balance less than \$400, and not currently on a payment plan for a past due balance.
- ✓ Arrangements can be made online at: <http://www.michigangasutilities.com/service/arrangements.aspx>

4. Third Party Notification

- ✓ DTE, SEMCO, and Consumer's Energy offer third party notification or double notice of bill due dates. The third party is not liable for the bill; they are simply notified to remind the responsible party. This option is an added measure of protection to avoid late bills and shut offs.
- ✓ Contact companies: DTE (800) 477-4747, SEMCO (800) 624-2019, Consumer's Energy (800) 477-5050.

Telephone Assistance Programs

1. Lifeline and Link-up Telephone Assistance

- ✓ Lifeline is a government program in which qualified individuals receive discounts on monthly telephone bills.
- ✓ Link-up helps pay the expense of phone installation.
- ✓ Applicants must meet income requirements or, be recipients of Medicaid, Food Stamps, SSI, Section 8, temporary needy family assistance, National School Lunch Program.
- ✓ Verizon customers call (800-483-4000)
- ✓ AT&T Customers call (800-621-8650)
- ✓ All other companies call (866-321-2323)

continued on page 14

Consumers Services

1. Credit Card Offer Opt-Out

- ✓ Consumers can visit the secured website, which is a joint venture between the major credit reporting agencies, and choose to opt-out of credit offers for five years or permanently.
- ✓ If the five year electronic opt out is selected the form may be completed online. If permanent opt out is selected the form is filled out online, but the permanent election form must be printed, signed and mailed. In the interim a five year request will be processed until receipt of the permanent form.
- ✓ www.optoutprescreen.com
- ✓ Call (1-888-567-8688)

PATRICIA E. KEFALAS DUDEK, ESQ., a 1992 graduate of the Detroit College of Law, is a member of the State Bar of Michigan, the Oakland County Bar Association and Past Chair of the Elder Law and Advocacy Section of the State Bar. As an advocate for persons with disabilities she is an active member of the National Academy of Elder Law Attorneys and Past Chair of the Trust Special Interest Group. Additionally she volunteers as a member of the Board of Directors of United Cerebral Palsy Association of Metropolitan Detroit. As an outspoken advocate, Ms. Dudek often provides written and oral testimony on legal and public policy issues pertaining to her clientele. Further Ms. Dudek is a member of the Advisory Board of the Academy of Special Needs Planners.

NAELA in the News

NAELA was mentioned as a resource and/or Elder Law was prominently noted in:

- “When It’s Time to Tap Your Assets, Order is Important,” which was published in the June 29, 2007 issue of *USA Today*.
- “You Can Avoid Going to Court if You Have the Proper Legal Documents,” which was published in the June 25, 2007 issue of *USA Today*.
- “A Guide for Caregivers,” which was published in the June 18, 2007 issue of *Newsweek*.
- Gregory S. French, CELA, was quoted in “Research is Essential in Selection of Right Policy,” which was published in the June 28, 2007 issue of *USA Today*.
- Rachel Hirschfeld, Esq., and Miriam R. Kennedy, Esq., were quoted in “Estate Planning to Care for Your Pets,” which was published in the July 10, 2007 issue of the *Arizona Daily Star*.
- Vincent J. Russo, CELA, was quoted in “When It’s Time to Tap Your Assets, Order is Important,” which was published in the June 29, 2007 issue of *USA Today*.

NAELA Members in the News:

- William J. Browning, CELA, was quoted in “Is Medicaid Pushing Up the Divorce Rate,” which was broadcast on May 31, 2007 on FOX News.
- Lawrence E. Davidow, CELA, was quoted in “Talking it Out,” which was published in the April 2007 issue of *Better Homes & Gardens*.
- Lawrence E. Davidow, CELA, was quoted in “For Many Retirees Home’s Too Sweet to Leave,” which was published in the June 11, 2007 issue of *USA Today*.
- G. Mark Shalloway, CELA, and Craig Reaves, CELA, were quoted in “You Can Avoid Going to Court if You Have the Proper Legal Documents,” which was published in the June 25, 2007 issue of *USA Today*.
- G. Mark Shalloway, CELA, was quoted in “A Guide for Caregivers,” which was published in the June 18, 2007 issue of *Newsweek*.

NAELA Member Awards:

- *Law & Politics* and *New Jersey Monthly* named **Lawrence A. Friedman, Esq.**, a New Jersey Super Lawyer for 2007 on May 14, 2007. Super Lawyers are chosen through a survey of all Garden State lawyers in practice at least five years, a panel of leading attorneys and a research & verification process. Only five percent of New Jersey lawyers and less than fifteen elder law attorneys are designated as Super Lawyers.
- **Howard S. Krooks, Esq.**, was named a Florida Super Lawyer for 2007 by *Super Lawyers* magazine in June 2007.
- **Stuart R. Morris, Esq.**, was named a Florida Super Lawyer for 2007 by *Super Lawyers* magazine in June 2007.

Super Lawyers names Florida's top lawyers as chosen by their peers and through the independent research of Law & Politics. 2007 Florida Super Lawyers is based on the survey of more than 44,000 lawyers across the state.

2007 Florida Super Lawyers is based on the survey of more than 44,000 lawyers across the state.

The research department at Super Lawyers examines the background and experience of each candidate, searching for evidence of peer recognition and professional achievement. Then each candidate is subjected to peer evaluation by a panel within their own practice area. Only 5 percent of the total lawyers in the state are selected for inclusion in Super Lawyers.

- **Daniel D. Munster, Esq.**, was elected as one of only two Super Lawyers in the Elder Law category in Georgia. The Super Lawyer moniker is given to no more than 5 percent of practicing attorneys in each state and suggests a high degree of peer recognition and professional achievement in the attorney's area of practice. Selection as a Super Lawyer follows a lengthy nomination process followed by a review of the attorney's professional credentials by both Super Lawyer peers and a panel of experts.
- **Kim Hubbard, Esq.**, from Laguna Beach, California, was honored by California Women Lawyers with the 2007 Fay Stender Award. The Fay Stender

Award is given annually to a member of the California legal community who has promoted the interests of the underserved in providing access to justice.

Kim's work on the Orange County Financial Abuse Specialist Team and the Model Program for the Unbefriended Elderly were cited as illustrations of her community activism that qualifies her for the award.

The Southern California and Northern California NAELA Chapters contributed to be a Silver Sponsors of the awards dinner, held as part of the State Bar of California Annual Meeting.

- **Judith Stein, Esq., founder** and executive director of the national Center for Medicare Advocacy in Willimantic, has earned the Connecticut Commission on Aging's "Agewise Advocate Award" for her extraordinary work in helping Connecticut's older adults navigate the complex Medicare system.

NAELA Member Speakers:

- **Richard A. Courtney**, CELA, was a Focus Session Speaker at the Million Dollar Round Table Annual Conference in Denver, CO on June 11, 2007. The organization is for the highest performing insurance folks who meet membership qualifications. There was an extensive

submission process since last September, and their conference was impressively managed in all details.

Over 7,500 attendees at the conference, with 63% of them internationals from approximately 70 countries. The highest attendance countries, in order, were United States, South Korea, Japan and India.

Richard's topic was "Building a Team of Heroes: The Fusion of Elder Law and Financial Services." It outlined the provisions of the Deficit Reduction Act of 2005 pertaining to annuities and the planning needs for older clients with chronic health problems. The presentation encouraged the attendees to work with elder law attorneys in serving such clients, so that they can avoid selling the wrong financial products and thereby defeating potential Medicaid and long-term care planning for those clients. It also mentioned special needs trusts as useful planning techniques for incapacitated spouses.

NAELA and the National Elder Law Foundation were featured in the written manuscript and the PowerPoint presentation as the sources at which to find competent elder law attorneys. There were over 150 attendees at the session.

New CELA:

Bridget O'Brien Swartz,
CELA



CELA Exam Passing Rates – *an Exaggeration?*

Jennifer R. Luitjens, CELA
Stephen J. Spano, CELA
NELF Board of Directors

Mark Twain must have been delighted to make the correction that “the report of my death is exaggerated.” Can the same be said about the grim reports of the CELA exam pass rate over the last few years? That, of course, is relative, depending upon your view of an acceptable pass rate. State bar exam pass rates vary quite a bit across the country. A small sampling of results from the July 2006 exam reveals rates of 51.8% in California, 69.5% in New York, 76.08% in Pennsylvania, and 82.3% in Massachusetts. CELA exam rates have fallen below 50% for the past 3 years or 6 exams. Like the bar exam, the CELA exam tests a myriad of broad topics, all instrumental to the practice of elder law.

Whatever your view of acceptable, the rate has been declining enough so to draw its attention to the NELF Board. Accordingly, we conducted a preliminary review of the examination process. We questioned whether the poor results were caused by a change in the applicant pool, specifically their levels of expertise, years of experience, or scope of elder law practice, the exam grading process, the exam itself, and exam awareness and preparedness. While the Board continues to evaluate these suppositions, one area on which we can focus immediately and in this medium is exam awareness and preparedness.

We questioned whether the poor results were caused by a change in the applicant pool, specifically their levels of expertise, years of experience, or scope of elder law practice, the exam grading process, the exam itself, and exam awareness and preparedness.

The CELA exam is a one-day closed book exam consisting of multiple choice, short answer, and essay questions. These questions are designed to test the applicant’s knowledge in all areas which comprise elder law, including the following: (1) Health and Personal Care Planning; (2) Pre-Mortem Legal Planning; (3) Fiduciary Representation; (4) Legal Capacity Counseling; (5); Public Benefits Advice, including Medicaid, SSI, and VA benefits; (6) Advice on Insurance Matters; (7) Resident Rights Advocacy; (8) Housing Counseling; (9) Employment and Retirement Advice; (10) Income, Estate and Gift Tax Advice; (11) Public Benefits Advice, including Medicare, Social Security, and food stamps; (12) Counseling with regard to age and/or disability discrimination in employment and housing; and (13) Litigation and

Administrative Advocacy in connection with (1) – (12). The ABA requires competency in elder law, not just in the area of Medicaid. As such the exam is a broad and encompassing examination of the test-takers knowledge of elder law.

To prepare for the exam, The National Elder Law Foundation suggests that applicants attend the NAELA Advanced Elder Law Review course, a one-day review course currently offered immediately prior to both the Symposium and Institute. Although this course is not an exam preparation course, previous test-takers have found this course invaluable and many have suggested attending it 6 months – 1 year prior to taking the exam. Course

materials for this advanced review course are also available for study in print and audio formats. In addition, applicants have a variety of other material available for study, including the many reference books that should be standard in every elder law attorney’s library, including: “Best of NAELA” series and non-NAELA print resources including The Elder Law Answer Book (Fleming/Davis), Tax, Estate & Financial Planning for the Elderly: Forms & Practice (Regan/Gilfix/Morgan/English), Advising the Elderly or Disabled Client (Frolik/Brown) and Advising the Elderly Client (Dayton/Guare/Mezzullo/Wood), as well as any other book which reviews elder law from the federal perspective.

For more information on becoming a Certified Elder Law Attorney, visit www.nelf.org.



Chapter Presidents

Arizona Chapter

Suzanna Goldman, Esq.
Phoenix, AZ
(602) 254-5992

California Chapter - Northern

Ruth E. Ratzlaff, Esq.
Fresno, CA
(559) 226-1540

California Chapter - Southern

Michael J. McGuire, Esq.
Lakewood, CA
(562) 627-9600

Colorado Chapter

Catherine Anne Seal, CELA
Colorado Springs, CO
(719) 448-0734

Connecticut Chapter

Noreen A. Dillman CELA
Wethersfield, CT
(860) 563-4070

Florida Chapter

Michael A. Pyle, Esq.
Daytona Beach, FL
(386) 615-9007

Georgia Chapter

David G. Carter, Esq.
Atlanta, GA
(378) 528-8480

Illinois Chapter

Marguerite Angelari, Esq.
Chicago, IL
(312) 915-6775

Indiana Chapter

Robert W. Fechtman, CELA
Indianapolis, IN 46240
(317) 663-7200

Kansas Chapter

James P. Berger
Overland Park, KS
(913) 491-6332

Maryland/DC Chapter

Morris Klein, CELA
Bethesda, MD
(301) 652-4462

Massachusetts Chapter

Mark W. Worthington, CELA
Worcester, MA
(508) 757-1140

Missouri Chapter

Lois M. Zerrer, Esq.
Springfield, MO
(417) 868-8200

New Hampshire Chapter

William A. Hartley, Esq.
Portsmouth, NH 03801
(603) 436-0222

New Jersey Chapter

Sharon Rivenson Mark, CELA
Jersey City, NJ
(201) 239-0300

New Mexico Chapter

Barbara J. Buck, Esq.
Albuquerque, NM
(505) 842-5551

New York Chapter

Cora A. Alsante, Esq.
Syracuse, NY
(315) 471-3151

Ohio Chapter

Todd W. Bartimole, Esq.
Beachwood, OH
(216) 464-9999

North Carolina Chapter

J. Gregory Wallace, Esq.
Raleigh, NC
(919) 876-1400

Wendy A. Craig, Esq.

Black Mountain, NC
(828) 669-0799

South Carolina Chapter

Mitchell C. Payne, Esq.
Rock Hill, SC
(803) 329-8656

Tennessee Chapter

Kelly Frere, CELA
Knoxville, TN
(865) 694-0373

Texas Chapter

G. Gaye Thompson, Esq.
Austin, TX
(512) 335-6800

Vermont Chapter

Dianne Rosen Pallmerine, CELA
Colchester, VT
(802) 651-9000

Virginia Chapter

Edward E. Zetlin, Esq.
Falls Church, VA 22046
(703) 536-7778

Washington Chapter

Erv A. DeSmet, Esq.
Bellevue, WA
(425) 990-4510

Wisconsin Chapter

Jeffery J. Drach, CELA
Wausau, WI
(715) 842-0606

NAELA Calendar of Events

January 25—27, 2008

2008 NAELA UnProgram
Embassy Suites Outdoor World
Grapevine, TX

May 14—18, 2008

2008 NAELA Symposium
20th Anniversary Celebration
Hyatt Regency Maui Resort & Spa
Lahaina, Maui HI

Fall, 2008

2008 Advanced Elder Law Institute
Kansas City, MO

Stay tuned for more information on ALL NEW
NAELA Programming beginning in 2009!!

January 25—27, 2009

2009 NAELA UnProgram

Spring, 2009

2009 NAELA Annual Meeting
Washington, DC



NAELA Senior Rights PAC Contribution Commitment Form

NAELA NAELA has recently created a federal political action committee, Senior Rights PAC, to increase our recognition and effectiveness in the public policy arena. Please join your fellow NAELA members in this exciting time as NAELA actively advocates for our Country's seniors and persons with special needs!

Name _____ Member ID _____
Occupation _____ Who contacted you about contributing? _____
Employer _____
Address _____
City _____ State _____ Zip Code _____
Phone _____ Fax _____ E-mail _____

Contribution

- ☐ I wish to contribute \$ _____, as denoted below:
☐ Patron: \$1 - \$499
☐ Supporter: \$500 - \$999
☐ Friend: \$1,000 - \$2,499
☐ Benefactor: \$2,500 - \$4,999
☐ Pacesetter: \$5,000

Payment Details

- ☐ Enclosed is my personal check, payable to NAELA Senior Rights PAC

Personal checks are preferred. Corporate checks are not acceptable. If a firm (partnership) check is used, the contribution will be equally attributed to ALL principals in the firm, unless you direct us otherwise. If using a firm check, please list all other principals below (or those principals to whom the contribution should be allocated, and in what proportions).

Charge my Credit Card, details as follows: ☐ American Express ☐ Visa ☐ MasterCard

Card Number _____ Expiration Date _____

Signature _____

I certify that this is a personal or firm (partnership) credit card, not a corporate card.

Charge my credit card in _____ installments of \$ _____ every _____ month(s) for a total amount of \$ _____

Please return Commitment Form and payment to:

NAELA SR-PAC, 1604. N. Country Club Rd., Tucson, AZ 85715 / Fax: 520/325-7925

Thank you for your generous support!

The purpose of the SR-PAC is to help elect candidates who will support the goals and objectives of NAELA. SR-PAC funds are used to make contributions to candidates for public office. The contribution amounts listed are only suggestions; more or less may be contributed (subject to a limit of \$5,000 per donor per calendar year). The amount given, or the refusal to give, will not benefit or disadvantage a member. You may refuse to contribute without reprisal. Only members of NAELA may be solicited to contribute. We may not accept contributions from corporations, foreign nationals, federal government contractors, or by one person in the name of another person, nor may we accept contributions of more than \$5,000 per calendar year from any one contributor. Contributions are not tax deductible. Federal law requires us to obtain and report the name, address, occupation and employer of each contributor who gives more than \$200 in any calendar year.

NAELA Member Discount Partners Offers Benefits to NAELA Members!!

The National Academy of Elder Law Attorneys' (NAELA) Member Discount Program provides discounts to NAELA members on a variety of products and services.

The program was formed to develop partnerships with companies willing to participate in a group-purchasing program that extends discounts to NAELA members.

You can look forward to receiving information directly from these vendors by contacting them for further information.

NAELA will announce new partners as they are approved; meanwhile, we encourage you to take full advantage of this member service and reap the benefits of your NAELA membership!

NAELA does not imply warranties as to the products or services offered by Member Discount Partners. It is recommended that NAELA members should assure themselves as to quality, integrity, suitability, and other relevant attributes.



Give this handy desk reference to your office manager!!



You can trust these companies to be responsive and knowledgeable about NAELA

AMERICAS LIFE STORIES

602-620-9844

www.Americaslifestories.com

Product information: Capturing Lives Stories is a simple, inexpensive, easy to use kit that guides anyone through the productive recording of their life experiences. **Discount to Members:** 10% discount, starting at \$17.95.

DHL

Members can rely on DHL's commitment to guaranteed on-time delivery and customer service 24 hours a day, 7 days a week. To enroll and start saving, call 1-800-MEMBERS today to speak with a dedicated Member Service Representative, or visit www.1800members.com/NAELA.

Please consult www.dhl-usa.com for service availability. **Product information:** DHL Express is an air express and ground shipping company. **Discount to Members:** up to 25% on all of your express shipping; DHL Next Day, DHL 2nd Day, DHL Ground and International Express Services

STAPLES

Go on-line for a fax form to set up a NAELA account. Netette.Smith@staples.com

www.stapleslink.com

Product information: Office supply program with access to over 80,000 product. **Discount to Members:** Up to 98% of manufacturer's list price, depending on the product.

DOCUBANK

610-667-3524

www.docubank.com

Product information: Emergency storage and retrieval service for living wills and other advance medical directives. **Discount to Members:** 33% discount on fees (1yr. = \$20, 5yr. = \$60) Complimentary memberships to attorneys and all their staff.

HERTZ

1-800-654-2200

Product Information: With 7,000 locations in more than 150 countries, Hertz is able to offer special discounts on car rentals worldwide. **Discount to Members:** 10% discount on Hertz Standard Daily,

Weekend, Weekly and Monthly Rates, 5% or greater discount on Hertz Leisure Daily, Weekend, Weekly and Monthly Rates.

Call 1-800-654-2200 and mention Hertz Discount CDP# 1673984

INTERACTIVE LEGAL SYSTEM

(888) 315-0872

www.WealthTransferPlanning.com

Product information: Wealth Transfer Planning, complete drafting and expert system for lifetime estate planning, by Jonathan G. Blattmachr & Michael L. Graham. ILS offers outstanding customer service. **Discount to Members:** 10% discount on all products and services. Please mention code WTP-NAE01 when ordering.

KONICA BUSINESS TECHNOLOGIES, INC.

858-348-8807, ask for Gene

www.kmbs.konicaminolta.us

Product information: Digital Copiers/Printers, Color Copiers, Color Printers and Fax Machines. The contact specializes in estate planning equipment. **Discount to Members:** 40% off on equipment. Will extend Fortune 500 pricing on service agreements.

LEGAL RESOURCES, LLC

631-725-4778

www.legalresourcesllc.com

Product Information: Senior Resource Guide Marketing System is an innovative marketing program that guides in creating a useful 22 page informative resource guide for those with long-term illness. **Discount to Members:** Fifteen percent (15%) to NAELA members.

PREMIER SOFTWARE

856-429-3010

www.premiersoftware.com

Product information: Installation and training of Time Matters and Elder Law Feature Package software for Elder Law practices. **Discount to Members:** 10% off on products* and services.

**The 10% discount applies to the Elder Law Feature Package. The Time Matters product discount is still being negotiated.*

THE GROWTH COACH

419-503-0294

j.beck@thegrowthcoach.com

http://www.TheGrowthCoach.com/Coach/75443_28/Index.asp

Product Information: Optimize your practice by utilizing quarterly Strategic Retreats. The experienced coach/facilitator will guide participants through a proven set of processes and business content enabling participants to improve their focus, effectiveness, accountability, and Strategic Mindset®. Retreats are held regionally throughout the US and Eastern Canada. A phone/e-mail option is also available. **Discount to Members:** 20% discount on Strategic Retreats (in-person coaching) and on Coaching Club (phone/e-mail coaching). Please mention product code NAELA-JBA.

VSA, Inc.

856-547-3500

valerie.schlitt@vsapropecting.com

www.vsapropecting.com/centers-influence.htm

Product Information: VSA implements programs to build and expand Elder Law Attorneys' base of professional referral sources. Through list research, targeted mailings and telephone calls, Elder Law Attorneys meet other professionals (assisted living facilities, discharge planners, etc.) who can refer business.

Discount to Members: Ten percent (10%) to NAELA members

SUNBRIDGE

407-445-6044

Farnsworth@sunbridgenetwork.com

www.SunBridgeLegacy.com

Product Information: The SunBridge Legacy Builder Retreat is an intensive, hands-on, two-day workshop that teaches elder law attorneys, their staff members, and other advisors how to integrate their planning for the financial legacy with their planning for the "larger legacy of non-financial wealth" and how to elegantly and profitably weave legacy building into their marketing and client services. **Discount to Members:** \$300 discount off the regular \$997 price of the Retreat, a 30% savings. Net cost for NAELA members and staff: \$697.

National Academy of Elder Law Attorneys
1604 N. Country Club Road, Tucson, AZ 85716-3102

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Save the DATE!

2008 NAELA Symposium 20th Anniversary

May 15-18, 2008

Pre-Sessions on May 14, 2008

HOTEL INFORMATION

Hyatt Regency Maui, 200 Nohea
Kai Drive, Lahaina, HI 96761
Reservations: (800) 233-1234
Phone: (808) 661-1234

RATE: Starting at \$220.00 per night, single or double occupancy. Call the Hyatt Regency Maui Hotel (800) 233-1234 and mention that you are with the NAELA Symposium to receive the special rate of \$220.00 per night plus tax for single or double occupancy. Reservations are on a first-come, first-served basis and the group rate cannot be guaranteed after Saturday, March 15, 2008. Be sure to make your reservations early! A full conference brochure with rates will be available by December, 2007.

Ka 'Ohana NAELA

Celebrating Our Past, Visioning Our Future

20th
anniversary

May 15-18, 2008 / Pre-Session May 14 / Hyatt Regency / Maui, Hawaii



National Academy of
Elder Law Attorneys, Inc.

ROOM RATES

Terrace \$220 • Golf/Mountain \$255 • Partial Ocean View \$295

Run of Deluxe Ocean View and Deluxe Ocean Front \$340 • Run of Regency \$435