

NEW YORK STATE BAR ASSOCIATION



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NYSBA

Elder Law and Special Needs Section

Fall Meeting

October 22-23, 2015

The Gideon Putnam Resort
Saratoga Springs, New York

The New York State Bar Association's Meetings Department has been certified by the NYS Continuing Legal Education Board as an accredited provider of continuing legal education in the State of New York. Under New York's MCLE rule, this two-day program will provide you with **10.0 credit hours in Professional Practice and 1.0 in Ethics**. This program is not transitional and is not suitable for MCLE credit for newly-admitted attorneys.



SCHEDULE OF EVENTS

Thursday, October 22

- 9:00 a.m.** Registration & Exhibitors
- 9:00 – 10:00 a.m.** Executive Officers' Meeting
- 10:00 a.m. – 1:00 p.m.** Executive Committee Meeting and Luncheon
- 1:15 – 5:05 p.m.** **GENERAL SESSION**
Wireless internet sponsored by Elder Law & Special Needs Practice of Felicia Pasculli, Esq., PC
- 1:15 – 1:30 p.m.** **Welcoming Remarks** **NYSBA Welcome** **Program Introduction**
JulieAnn Calareso, Esq. **David P. Miranda, Esq.** **Felicia Pasculli, Esq.**
Section Chair President, NYSBA Program Co-chair
- 1:30 – 2:20 p.m.** **Considerations For the Special Needs Family: From Early Intervention Through the Transition out of the Education System**
- Early Intervention; understand what it is, how to access it, and what it covers
 - Learn about Committees on Preschool Special Education and Special Education
 - Gain insight on common issues and considerations in Special Education from both the School District and Parent perspectives
 - Full transition into the Medicaid Funded Service Delivery System; OPWDD, DOH, OMH Waivers and Programs
- Speakers:** **Tara Anne Pleat, Esq.**, Wilcenski & Pleat PLLC, Clifton Park
Tara L. Moffett, Esq., Girvin & Ferlazzo, PC, Albany
- 2:20 – 3:10 p.m.** **The Mechanics of Protecting Assets for the Special Needs Child**
- The basics on Infant Compromise Orders
 - Working through the Article 17 and Article 17-A systems
 - Suitability of an Article 81 proceeding for a special needs child
 - Coordination of litigation and guardianships
 - Impact of special need child's funds on family and child benefits
 - ABLE Accounts
- Speaker:** **Joan Lensky Robert, Esq.**, Kassoff, Robert & Lerner Law, Rockville Centre
- 3:10 – 3:25 p.m.** **Refreshment Break with Exhibitors**
Sponsored by The McGuire Group Health Care Facilities
- 3:25 – 4:15 p.m.** **Veterans' Benefits - The New Reality**
- What you need to know about the Department of VA's Healthcare System and Financial Benefits
- Speakers:** **Nina M. Daratsos, Esq., LLM**, Niskayuna, New York
Paul E. Stote, New York State Division of Veterans' Affairs, Saratoga Springs
Benjamin P. Pomerance, Esq. New York State Division of Veterans' Affairs, Albany
- 4:15 – 5:05 p.m.** **Thinking Outside the Box: Options for Asset Preservation with Beneficial Tax Consequences**
- Family Limited Partnerships
 - Limited Liability Companies
 - Irrevocable Life Insurance Trusts
- Speakers:** **Cora Alsante, Esq.**, Hancock Estabrook, LLP, Syracuse
Susan L. King, Esq., Miller King LLC, Tully
- 6:00 – 7:00 p.m.** **Welcome Cocktail Reception - National Museum of Racing and Hall of Fame**
Driving directions will be provided at the registration desk.
- Visit the Sculpture Gallery which holds approximately 70 sculptures that capture the beauty, athleticism and spirit of the thoroughbred. Walk through the Hall of Fame Gallery and see the plaques commemorating all of the Hall of Fame members.
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- 7:00 – 10:00 p.m.** **Dinner - Hall of Fame**
Entertainment sponsored by NYSARC, Inc. Trust Services
Wine during dinner sponsored by The Center for Special Needs Trust Administration

SCHEDULE OF EVENTS

Friday, October 23

- 7:00 a.m. Registration & Exhibitors**
- 7:30 – 8:30 a.m. Elder Law and Special Needs Section Committee Breakfast Meetings**
- Elder Abuse
 - Estates, Trusts & Tax Issues
 - Ethics
 - Guardianship
 - Health Care Issues
 - Mediation
 - Medicaid
 - Membership Services
 - Mental Health
 - Special Education
 - Special Needs Planning
 - Technology
- 7:30 – 8:30 a.m. Friends of Bill W. Meeting**
- 8:30 a.m. – 4:30 p.m. GENERAL SESSION**
Wireless internet sponsored by NYSARC, Inc. Trust Services
- 8:30 – 8:45 a.m. Welcoming Remarks**
JulieAnn Calareso, Esq.
Section Chair
- Program Introduction**
William D. Pfeiffer, Esq.
Program Co-chair
- 8:45 – 9:35 a.m. Powers of Attorney - Covering All Contingencies**
- Modifications to the Power of Attorney form and the Gift Rider
 - Acceptance of the Power of Attorney by government agencies
 - Protection of assets or elder abuse?
- Speaker:** **Richard A. Weinblatt, Esq.,** Haley Weinblatt & Calcagni, LLP, Islandia
- 9:35 – 10:25 a.m. Taxation Issues in Elder Law**
- Basis of Assets - Step up and cost basis for real property and other assets; merits to deed with life estate vs. irrevocable trust; basis issues for inter vivos gifts
 - Various tax issues for representing a beneficiary - Devises of Real Property; Inheritance tax for the foreign beneficiary; Gift tax issues for beneficiaries
 - Fiduciary Income Taxes 101 for the Elder Law Practitioner - K1 vs. 1099; what expenses are deductible to offset income?; understanding tax issues before drafting elder law documents
 - SS-4 forms and EIN numbers - When do you need one for a trust and estate? How to choose a closing date/calendar year end for the entity
 - Final income tax issues for the decedent
- Speaker:** **Judith Nolfo McKenna, Esq.,** Law Office of Judith Nolfo McKenna, Albany
- 10:25 – 10:40 a.m. Refreshment Break with Exhibitors**
Sponsored by Premier Home Health Care Services, Inc.
- 10:40 – 11:30 a.m. Optimizing Medicaid Benefits to Keep Your Client in the Community**
- Coordination of Community Medicaid benefits with pooled trusts
 - The impact of managed care on Community Medicaid
 - Community Medicaid in non-waivered assisted living residences
- Speaker:** **Jeanette Grabie, Esq.,** Grabie & Grabie, LLP, Smithtown
- 11:30 a.m. – 12:20 p.m. Should They Stay Or Should They Go?**
- Aging out in Florida vs. New York
 - Comparison of services Community and Chronic Care Medicaid Programs
 - How is managed care effecting each state's implementation
 - Does Florida require more proactive planning? What about Homestead exemptions?
- Speakers:** **Jeffrey Rheinhardt, Esq.,** Radley & Rheinhardt, PC, Ilion
Scott M. Solkoff, Esq., Solkoff Legal PA, Delray Beach, FL
- 12:20 – 1:30 p.m. Luncheon**
Join us for lunch and continue your networking.
- 1:30 – 2:20 p.m. Life Care Planning Law Firms - Retaining Clients for Life?**
- Taking a more holistic approach to planning
 - Staffing that includes non-lawyers (nurses, social workers)
 - Freeing up the lawyer's time to practice law
- Speaker:** **Rachel A. Kabb-Effron, Esq., CELA,** Kabb Law Firm, Beachwood, Ohio
- 2:20 – 3:10 p.m. It's a Matter of Trust: Drafting To Cover All Contingencies**
- Using the same trust for VA & Medicaid benefits eligibility
 - When you run short of the 5-year lookback
 - Spouses, one or two trusts
 - Impact of restatements; reverse mortgages
- Speaker:** **Felicia Pasculli, Esq.,** The Elder Law & Special Needs Practice of Felicia Pasculli, Esq., PC, Bay Shore

SCHEDULE OF EVENTS

Friday, October 23 *continued*

3:10 – 3:25 p.m.

Refreshment Break with Exhibitors

3:25 – 4:25 p.m.

**Ethical issues presented by Diminished Capacity:
Revealing the Limits of Advanced Directives.**

- Capacity to execute
- What happens when circumstances change
- How do you represent the “black sheep”
- Issues relating to placement and discharge from hospitals and other facilities
- Visitation rights and denial of same
- Can you toggle on and off powers
- Rules of professional conduct
- Recent fact patterns

Moderator:

William D. Pfeiffer, Esq., The Pfeiffer Law Firm PLLC, Albany

Speakers:

Richard A. Marchese, Jr., Esq., Woods Oviatt Gilman LLP, Rochester

Robert Swidler, Esq., VP Legal Services, St. Peter’s Health Partners Member,
NYS Task Force on Life and the Law, Albany

CLE AND IMPORTANT INFORMATION

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DISCOUNTS AND SCHOLARSHIPS: New York State Bar Association members and non-members may receive financial aid to attend this program. Under this policy, anyone who requires financial aid may apply in writing, not later than ten working days prior to the program, explaining the basis of his/her hardship, and if approved, can receive a discount or scholarship, depending on the circumstances. For more details, please contact: Kathy Heider, New York State Bar Association, One Elk Street, Albany, New York 12207

ACCOMMODATIONS FOR PERSONS WITH DISABILITIES: NYSBA welcomes participation by individuals with disabilities. NYSBA is committed to complying with all applicable laws that prohibit discrimination against individuals on the basis of disability in the full and equal enjoyment of its goods, services, programs, activities, facilities, privileges, advantages, or accommodations. To request auxiliary aids or services or if you have any questions regarding accessibility, please contact Kathy Heider at 518.487.5500 or kheider@nysba.org.

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**Elder Law &
Special Needs**
Practice of Felicia Pasculli, Esq.



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THANK YOU TO OUR EXHIBITORS

Aetna
The Center for Special Needs Trust Administration
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ElderCounsel
FindLaw, Thomson Reuters
First Bank
LCG Community Trust
NYSARC, Inc. Trust Services
Premier Home Health Care Services, Inc.
RDM Financial Group, Inc.
Summit Home Health Care
Trustco Financial Services
The Wesley Community
York Healthcare

RESTAURANTS

Chianti Il Ristorante, The Lofts at 18 Division St., 518.580.0025. An authentic Italian restaurant where charming atmosphere, excellent food, and impeccable service blend together to give you a wonderful dining experience. www.chiantiristorante.com.

Forno Bistro, 541 Broadway, 518.581.2401. Serving rustic Italian food, Tuscan style, from thin crust wood-fired pizza to homemade pastas in an elegant but casual atmosphere. www.fornobistro.com.

Druthers Brewing Company, 381 Broadway, 518.306.5275. Lively brew pub serving its own craft beers & an eclectic food menu sourced from local ingredients

Jacob & Anthony's American Grille, 38 High Rock, 518.871.1600. With a look that is a slice of pure Americana and dishes featuring classic recipes with a modern presentation Jacob & Anthony's is a true American Classic. www.jacobandanthony.com.

Limoncello Ristorante, 1 Ballston Avenue, 518.580.8700. An elegant Northern Italian Trattoria located steps from beautiful Congress Park in the heart of Downtown Saratoga Springs. www.limoncelloristorante.com.

Maestro's at the Van Dam, 353 Broadway, 518.580.0312. Once you enter our small and energized space you will be caught up in the buzz of great food, great wine, and great service. www.maestrosatthevandam.com.

Max London's Restaurant & Bar, 466 Broadway, 518.587.3535. The dinner menu is divided into small plates, pizzas, pasta, and salads. Don't forget to ask about the nightly specials. Max London's also offers nearly 20 different beers and 30 different wines served in 8 1/2 oz. mini carafes, along with your "sure to please" choice of over 30 cocktails! www.maxlondon.com.

Mingle On the Avenue, Pavillion Hotel, 30 Lake Avenue, 518.583.6682. Korean fusion. Sustainable, locally sourced "real food for real people, real simple." <http://www.minglerestaurants.com/saratoga/>

Mouzon House, 1 York Street, 518.226.0014. Fine dining in a restored 1800's home overlooking High Rock Park. Highlighting true French Quarter cuisine, fresh from local organic farms. www.mouzonhouse.com.

Olde Bryan Inn, 123 Maple Avenue, 518.587.2990. Old stone house with Revolutionary-era ties serving sandwiches, steaks & hearty American fare. www.oldebryaninn.com

One Caroline Street Bistro, One Caroline Street, 518.587.2026. An intimate little bistro with fabulous food and a great wine list. Live music nightly and soft piano music during dinner. www.onecaroline.com.

Prime at Saratoga National Golf Club, 458 Union Avenue, 518.583.4653. The beef is dry-aged, the wines of fine vintage and the service unsurpassed. Fresh seafood and a range of other offerings round out a diverse menu. www.golfsaratoga.com/prime.html.

Ravenous Creperie, 21 Phila Street, 518.581.0560. A wide selection of savory and sweet crepes for lunch, dinner, or weekend brunch. Locals also rave about the Belgian pommes frites - fresh-cut, twice-cooked French fries served in paper cones, with your choice of dipping sauce. Beer, wine, espresso, and homemade cold drinks round out a unique menu. www.ravenouscrepes.com.

Sperry's, 30 1/2 Caroline Street, 518.584.9618. Sperry's is noted for its fresh grilled seafood, Maryland crab cakes, soft-shell crabs (in season) and steak au poivre. www.sperrysrestaurant.com.

Wheatfields Restaurant, 440 Broadway, 518.587.0534. Using only the finest ingredients, this downtown Saratoga Springs restaurant has been producing handmade pastas daily since 1988. Fresh from local fields to your plate. www.wheatfields.com.

Wine Bar, 417 Broadway, 518.584.8777. The Wine Bar serves eclectic American food with a focus on fresh ingredients and featuring over 40 wines by the glass, cocktails and bottled beers. www.thewinebarofsaratoga.com.

Wishing Well Restaurant, 745 Route 9, Gansevoort, 518.584.7640. Live Maine lobsters, prime steaks, hand-cut veal and fresh seafood are a staple of this Saratoga landmark. www.wishingwellrestaurant.com.

THINGS TO DO

National Museum of Dance & Hall of Fame

99 South Broadway, 518.584.2225. Only museum in the country devoted to American Professional Dance. www.dancemuseum.org

National Museum of Racing & Hall of Fame

Union Avenue, 518.584.0400. Trace the history and adventure of the Thoroughbred from 17th & 18th century racing in New York to the present day scene! www.racingmuseum.org

Roosevelt Baths and Spa

37-39 Roosevelt Drive, 518.226.4790. Stroll across the park from the Gideon Putnam to the spa to enjoy the luxury of Saratoga's naturally effervescent waters, with soothing baths and wonderfully relaxing spa treatments. Open 9 am to 7 pm. Appointments are recommended. Please call 800.452.7275 ext. 4. www.gideonputnam.com

Saratoga Automobile Museum

110 Avenue of the Pines, Saratoga Spa State Park, 518.587.1935. Located in a historic bottling plant, The Saratoga Automobile Museum preserves, interprets and exhibits automobiles and automotive artifacts. The museum offers education to the general public, students and enthusiasts regarding the role of the automobile in the past, present, and future. www.saratogaautomuseum.org

Saratoga Battlefield National Historical Park

648 Route 32, Stillwater, 518.664.9821 ext. 224. In the autumn of 1777 American forces met, defeated and forced a major British army to surrender. The Battle of Saratoga was a crucial American victory that renewed patriots' hopes for independence and secured essential foreign recognition and support. www.nps.gov/sara

Saratoga Spa Golf Course

60 Roosevelt Drive, 518.584.2006. Saratoga Spa Golf is located just south of historic Saratoga Springs, NY. Set in a pine forest, and surrounded by the natural and historic beauty of Saratoga Spa State Park, 'SPA GOLF' is comprised of an 18-hole Championship Course, a 9-hole Executive Course, an all grass driving range, a practice putting green, and a full service golf shop. www.saratogaspagolf.com

Saratoga Winery

462 Route 29, 518.584.9463. The family-owned and operated Saratoga Winery offers a diverse selection of traditional wines, as well as their signature wine called Melomel; the ancestor of all fermented drinks. Melomel is centuries old in Europe, Africa and Asia. Not to be confused with mead, Melomel is made of fruit and honey offering a smooth, somewhat sweet flavor to the palate. Visit any time for a tasting at their warm and inviting Adirondack style tasting bar. www.thesaratogawinery.com

Tang Teaching Museum and Art Gallery

Skidmore College, 815 N. Broadway, 518.580.8080. One of the first interdisciplinary museums of its kind in the country, the Tang develops exhibitions and programs that combine a variety of subjects such as antique maps, scientific artifacts and Shaker furniture together with new works of international, contemporary art. Artist talks, curator tours, films, music on the roof, and children's activities bring everyone together to explore art in new ways. <http://tang.skidmore.edu>

Tennis Courts at Spa State Park

Saratoga Spa State Park, Four hard top and four clay courts are available to Spa State Park visitors on a first come, first serve basis.

Yaddo Artists' Community

Union Ave at Henning Road, 518.584.0746. Yaddo offers residencies to professional creative artists from all nations and backgrounds working in a variety of media. The Yaddo Gardens are open daily dawn to dusk, free of charge. A formal rose garden and an informal rock garden feature turn-of-the-century fountains and statues. The Gardens are the only part of the Yaddo estate open to the public. www.yaddo.org





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