

New York State Bar Association
Elder Law and Special Needs Section & Trusts and Estates Law Section
2024 Fall Meeting

The Hotel Canandaigua
205 Lakeshore Dr., Canandaigua, NY

Wednesday, September 25 – Friday, September 27, 2024

10.0 MCLE Credits: 6.0 Areas of Professional Practice, 1.0 Ethics, 3.0 Skills

Elder Law and Special Needs Section Chair
Britt N. Burner, Esq., Burner Prudenti Law, P.C., NYC

Trusts and Estates Section Chair
Patricia J. Shevy, The Shevy law Firm LLC, Albany, NY

Program Planning Chairs:

Moriah Adamo, Esq., Abrams Fensterman, LLP, Lake Success, NY
Michael D. Dezik, Esq., Gold and Dezik, Niagara Falls, NY
Ross S. Katz, Esq., Schlesinger Lazetera & Auchincloss LLP, NYC
Lisa M. Powers, Esq., Harris Beach PLLC, Pittsford, NY

This program is transitional and is suitable for all attorneys including those newly admitted.

Agenda

Wednesday, September 25, 2024

6:00 p.m. – 7:30 p.m. **Welcome Cocktail Reception**
Lakefront Tent

Thursday, September 26, 2024

7:30 a.m. – 4:35 p.m. **Exhibitor Hall**
Lakefront Pre-Function

7:30 a.m. – 8:45 a.m. **Breakfast**
Salon C

8:15 a.m. – 8:45 a.m. **CLE Program Registration**
Lakefront Pre-Function

CLE Program
Meet Me at the Crossroads
Salon A&B

Day 1

9:00 a.m. – 4:35 p.m.

8:45 a.m. – 9:00 a.m.

Introduction

9:00 a.m. – 9:50 a.m.

I. Financial Abuse Education

Elder abuse exists in every family and every neighborhood. As trusted advisors we often learn of abuse that our clients have been too frightened or ashamed to share with loved ones. We can help stop abuse and assist victims. Learn what options are available for us to assist in the fight.

Panelists:

Tracey Siebert-Konopko, LMSW
Lifespan of Greater Rochester Inc.
Rochester, NY

Monica R. O'Brien, Esq.
Assistant District Attorney
Monroe County

1.0 MCLE Credit in Areas of Professional Practice

9:50 a.m. – 10:40 a.m.

II. A View from the Banking Industry

As trusts and estates and elder law practitioners we often feel at war with our colleagues in banking. Calls from confused clients or agents who are having trouble with a power of attorney are regular occurrences. In reality our banking colleagues can be some of our strongest allies for helping our clients meet their planning goals and avoiding or halting elder financial abuse. Canandaigua National Bank & Trust general counsel, Jennifer Weidner, Esq., worked in private practice for many years as a trusts and estates attorney before moving to her in-house role, and has a unique perspective to share.

Speaker:

Jennifer N. Weidner, Esq.
Canandaigua National Bank & Trust
Pittsford, NY

1.0 Credit in Areas of Professional Practice

10:40 a.m. – 11:00 a.m.

Refreshment Break with Exhibitors
Lakefront Pre-Conference

11:00 a.m. – 12:15 p.m.

III. Psychiatric Advance Directives, Article 9 Hearings

Mental Illness may have an impact upon you, your friends and family, your colleagues, or your clients. When a mental health crisis occurs, it requires immediate action which often results in inpatient psychiatric hospitalization. This course will review Mental Hygiene Law Article 9 the law governing psychiatric admissions in New York State and prepare attorneys to respond to those emergency scenarios.

This topic will explore the applicable legal standards for the various inpatient psychiatric admissions under Mental Hygiene Law Article 9; the rights of patients admitted to psychiatric hospitals to court hearings; the enforceability of Advanced Directives and other planning documents in the inpatient psychiatric setting; and the role of a Mental Hygiene Law Article 81 Guardian in a ward's mental health care and treatment.

Panelists:

Douglas K. Stern, Esq.
Abrams Fensterman LLP
Long Island, NY

Sarah A. Chussler, Esq.
Abrams Fensterman LLP
Long Island, NY

1.5 MCLE Credits Areas of Professional Practice

12:15 p.m. – 1:15 p.m.

Lunch
Canandaigua, Keuka, and Seneca Rooms

1:15 p.m. – 2:05 p.m.

IV. Navigating Guardianship in NY: The Pros and Cons of Article 17-A and Article 81: How to Derive Optimal Client Outcomes

This legal education program provides an overview of the two primary types of guardianship under New York State law: Article 17-A and Article 81.

Participants will learn the legal frameworks, eligibility criteria, and procedural differences between these guardianship types. The program will also explore the advantages and disadvantages of each, offering practical insights for legal professionals advising families on the most appropriate options for their loved ones. The session will equip attendees with a comprehensive understanding of how to navigate these critical decisions effectively. The session will also touch upon the potential statutory changes that would improve the outcome for clients under either guardianship structure.

Panelists:

Hon. A. Gail Prudenti
Burner Prudenti Law
P.C., East Setauket, NY

Laura M. Brancato Esq.
Brancato Law Group, PLLC
Larchmont, NY

1.0 MCLE Credit in Skills

2:05 p.m. – 3:20 p.m.

V. Planning for the Family Camp

Cottages, cabins and camps, oh my! The family camp could be the most emotionally charged asset to stymie planners. Planning needs to take into account tax issues, asset preservation options, management concerns and liquidity needs, not to mention psychological attachments that can destroy family harmony at multiple generations. Part 1 of the presentation focuses on the overall financial and tax

concerns most clients must consider. Part 2 will touch on the Medicaid aspects some of our clients will face.

Part 1: Second Home Planning, Financial Considerations

Speaker:

Elisa Shevlin Rizzo, Esq.
J.P. Morgan Private Bank
New York, NY

Part 2: Medicaid Considerations

Speaker:

Salvatore M. Di Costanzo, Esq.
Maker, Fragale & Di Costanzo, LLP
Rye, NY

1.5 MCLE Credits in Areas of Professional Practice

3:20 p.m. – 3:40 p.m.

Refreshment Break with Exhibitors
Lakefront Pre-Conference

3:40 p.m. – 4:30 p.m.

VI. Ethics of Use of AI in the Practice of Law

Generative artificial intelligence (“AI”), including chatbots, image generators, and similar applications that mimic human intelligence have great potential to enhance attorney productivity and efficiency. Consequently, these powerful tools have quickly become integral in the legal profession. However, AI must be employed responsibly; attorneys must comply with their ethical obligations and applicable law in utilizing AI in practice. Earlier this year, the NYSBA House of Delegates approved the comprehensive report of the NYSBA Task Force on Artificial Intelligence, providing practical guidance to attorneys integrating this powerful emerging technology in their practice. We will examine the Task Force report, AI, and its use (and misuse) in the legal profession, with careful attention to the Rules of Professional Conduct and other applicable law.

Speaker:

Frank T. Santoro, Esq.

Farrell Fritz, P.C.
Uniondale, NY

1.0 MCLE Credit in Ethics

4:30 p.m. – 4:35 p.m.	Closing Remarks
5:30 p.m. – 6:30 p.m.	Cocktail Reception Lakefront Tent
6:30 p.m. – 9:00 p.m.	Dinner Lakefront Tent

Day 2: Friday, September 27, 2024

8:00 a.m.- 9:00 a.m.	Breakfast & Committee Meetings Salon C
8:15 a.m. – 8:45 a.m.	CLE Program Registration Lakefront Pre-Function

CLE Program Meet Me at the Crossroads Salon A&B

Day 2
8:45 am – 11:30 a.m.

8:45 a.m. – 9:00 a.m.	Introduction
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9:00 a.m. – 9:50 a.m.	I. TOD Deeds
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Effective July 19, 2024, individuals in New York will be able to transfer property via a transfer on death (“TOD”) deed executed prior to their death to one or more beneficiaries, which becomes effective upon their death. Enacted with the laudable goal of helping individuals whose only valuable asset is their home find an easy way to pass title without the expense and delay of a formal proceeding, the resulting legislation leaves much to be desired and could actually cause more problems for the very people it is intended to benefit most. There will be an overview of the legislation enacted, the commentary provided to the legislature that was ignored in rushing to pass this law, efforts to ameliorate the issues created by the

new law and an update on activity by advocacy groups since passage.

Panelists:

Moriah Adamo, Esq.
Abrams Fensterman, LLP
Lake Success, NY

Lisa M. Powers, Esq.
Harris Beach PLLC
Pittsford, NY

1.0 MCLE Credit in Areas of Professional Practice

9:50 a.m. – 10:40 a.m.

II. SCPA 1404 Examinations

Section 1404 of the Surrogate’s Court Procedure Act (“SCPA”) provides for a multi-step process when a potential objectant seeks to make an informed decision as to whether to file objections to the probate of a Will. The first step is to engage in document discovery. The second step is to undertake the examinations of the attorney-draftsperson, the attesting witnesses and in certain instances, the nominated executor of the Will.

This course will focus on, and do an in-depth analysis of, the examinations to be conducted by a potential objectant to the probate of a Will. Specifically, this course will cover the parameters of what are known as SCPA 1404 examinations and the interplay between the rules of discovery and the statutory scope of the examination. The course will explore the appropriate questions to pose at the examinations to gather the most appropriate information to determine whether to file objections to a Will. It will also cover how to prepare a witness for an SCPA 1404 examination.

Panelists:

Ross S. Katz, Esq.
Schlesinger Lazetera & Auchincloss, LLP
New York, NY

Hon. John M. Czygier, Jr.
Lewis Johs Avallone Avides, LLP

Former Surrogate of Suffolk County
Islandia, NY

Hon. Frederick G. Reed
Ontario County Surrogate's Court
Canandaigua, NY

1.0 MCLE Credit in Skills

10:40 a.m. – 11:00 a.m.

Refreshment Break with Exhibitors
Lakefront Pre-Function

11:00 a.m. – 11:50 a.m.

III. Surrogates Panel
How to Prepare for Mediation in Surrogate's Court?

Everyone agrees that mediation is a crucial and now required tool for litigators in Surrogate's Court. Learn from a few of the judges successfully helping the bar avoid costly and protracted litigation.

Panelists:

Hon. Christopher S. Ciaccio
Monroe County Surrogate's Court
Rochester, NY

Hon. Hilary Gingold
New York County Surrogate's Court
New York, NY

Hon. Mary Keib Smith
Onondaga County Surrogate's Court
Syracuse, NY

1.0 MCLE Credit in Skills