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To: Kester, Tonykester@aging.sc.gov
Date: 11/12/2015 11:30:00 AM
Subject: New Bifocal: Decision-making myths & facts, hospitalist focus group, person-centered planning, and more!

Dear Subscriber:

The October issue of *Bifocal*, e-Journal of the ABA Commission on Law and Aging is now available on the [Bifocal homepage](#).

You can read the issue online or download the pdf.

What's inside this issue?

Cover Story

Myths and Facts About Health Care Advance Directives

By Charles Sabatino

Commission Director Charlie Sabatino shares his top 10 myths and facts about advance directives.

Featured Articles

If There is No Advance Directive or Guardian, Who Makes Medical Treatment Choices?

By Erica Wood

Because questions about surrogate decisions are so grave and the existing knowledge so scant, in the Spring of 2015, the ABA Commission on Law and Aging conducted a focus group of physicians at the March meeting of the Society of Hospital Medicine. The group included 22 hospitalists from 13 states, with a medical experience range of from five to 32 years. While small and not conclusive for research purposes, the focus group began to shed light on how the laws are perceived and used on the ground in hospital settings (although other clinicians may have different perspectives).

Person-Centered Planning? Not Without Family Caregivers!

By Julie Carter

Medicaid helps low-income beneficiaries stay home by providing funding for home and community-based services (HCBS). This care is vital but not without flaws. In 2014, the Centers for Medicare & Medicaid Services (CMS) issued new rules on person-centered planning, designed to ensure that the services provided are tailored to individuals' needs plus their goals and preferences. States vary in their implementation of these rules, but even where they are fully in effect, sometimes the important voices of family caregivers are left out of the conversation.

Twenty-Five Years of the Americans with Disabilities Act: A Brief Look

By Dara Valanejad

Fashioned with the Civil Rights Act of 1964 as a guide, the Americans with Disabilities Act (ADA) provides comprehensive legislation on the equal protection of individuals with disabilities. The purpose of the ADA is to allow the full participation of individuals with disabilities in society through independence in their living arrangements and finances. With this aim, the ADA addresses the four critical topics of employment, state and local government activities, public accommodations, and telecommunications.

Summary of Center for Medicare and Medicaid Services (CMS) Rule for Covering Cost of Advance Care Planning Services

By Charles P. Sabatino

On October 30, 2015, the Centers for Medicare and Medicaid Services (CMS) released its final physician fee schedule for 2016 [CMS-1631-FC], approving two reimbursement codes for advanced care planning (ACP). While the rule is final and effective January 1, CMS invites further comments on the rule by December 29, 2015. This article provides a summary of the details of the rule, paraphrasing CMS's explanation of what the rule means in practice and its responses to several issues that were raised in some 725 public comments they received during the comment period.

Helping Financial Caregivers in Every State

By Naomi Karp

The CFPB has released specially adapted lay-fiduciary guides for six states. They have already released new tools to help experts in other states adapt the CFPB's guides. These tips and templates are meant for key state professionals to develop guides for states that do not have them.

American Bar Association Supports Preserving Federal Public Service Loan Forgiveness

The American Bar Association urges Congress to preserve the federal Public Service Loan Forgiveness Program.

ABA Urges HHS to Strengthen Resident Protections in Proposed Nursing Home Rule

On September 30, the ABA submitted comments to the Department of Health and Human Services' Centers for Medicare & Medicaid Services (HHS CMS) urging it to modify its proposed rule establishing new requirements for long-term care facilities.

Update on Fair Labor Standards Act (FLSA) Home Care Rule

On October 6, 2015, Chief Justice John Roberts of the US Supreme Court denied an emergency request to stay the effective date of the Fair Labor Standards Act (FLSA) Home Care Rule.

Inside the Commission

New Commission on Law and Aging Chair and Members

Each September 1, a new roster of Law and Aging Commissioners is appointed by the ABA president. Most Commissioners serve for multiple years with a handful of new faces starting in any given year. This year, we have a new Chair and six new Commissioners; you will find them to be a diverse and highly expert group in their individual disciplines. Here, you will find short biographies of our incoming Chair and our six new Commissioners.

Attorneys Currently Testing New Guardianship Practice Tool

The Commission is happy to report that it has over 100 volunteer attorneys signed up to help test a new lawyer practice tool.

Events & CLE

VA Pension: Income Security for Veterans and Their Family

This webinar will cover eligibility of veterans and their dependents for VA pension.

2015 National Aging and Law Conference Materials

Were you unable to attend? Order a copy of the meeting material course book today!

To subscribe to *Bifocal* or to submit news items or a manuscript for consideration, contact editor [Andrea Amato](#).

Bifocal is distributed six times a year to state and regional elder bar section and committee officers and members, legal services providers, elder law and other private practitioners, judges, court staff, advocates, policymakers, law schools and elder law clinics, law libraries, and to other professionals in the law and aging networks.

The mission of the ABA Commission on Law and Aging is to strengthen and secure the legal rights, dignity, autonomy, quality of life, and quality of care of elders. It carries out this mission through research, policy development, technical assistance, advocacy, education, and training on a wide range of law-related issues, including: legal services to older persons; health and long-term care; housing; professional ethical issues; Social Security, Medicare, Medicaid, and other public benefit programs; guardianship; elder abuse; health care decision-making; pain management and end-of-life care; dispute resolution; and court-related needs of older persons.

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