# ELDRS Update

**Summer 2026, Volume XIII, Issue 2**

*This is a publication of the Elder Law & Disability Rights Section of the State Bar of Michigan. All opinions are those of the respective authors and do not represent official positions of the Elder Law & Disability Rights Section or the State Bar of Michigan. Comments or submissions should be directed to Christine Caswell, Editor, at christine@caswellpllc.com.*

## *From the Chair*

*By Susan Lucile Chalgian, Chalgian & Tripp Law Offices, East Lansing*



Hard to believe that fall is almost upon us, and we are under the two-month mark to our annual meeting and fall conference. This year we will be meeting in downtown Grand Rapids. Please hurry to register for the conference REGISTER HERE and reserve your hotel room BOOK HOTEL HERE. The conference will be lots of fun and heavily informative, as always. With this annual meeting, my term will end and Attorney Sandy Mall will be Chair. Sandy has chaired our section before, and his knowledge and experience have only deepened his commitment. Please join us in enjoying the practice of elder law and disability rights!

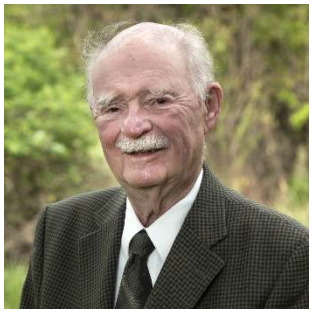
### *Save the Dates*

**2026 Fall Conference**
September 23-25
Embassy Suites
Grand Rapids

**Annual Meeting**
September 24, 12:15 pm
Embassy Suites
Grand Rapids

## *In Memoriam: John E. Bos 1938-2026*

*By Rosemary H. Buhl, Buhl, Little, Lynwood & Harris PLC, East Lansing*



Our community lost a good one in the passing of John Bos, who died in late June 2026.

John was born and raised in Lansing, attending MSU as an undergrad. He earned his law degree from U-M and was sworn into the Bar in 1964. In 1968, John was admitted to practice before the U.S. Supreme Court.

John practiced in the Lansing area his entire career, starting with Foster, Campbell, Lindemer & McGurrin in 1964, and finishing with Buhl, Little, Lynwood & Harris, PLC in 2022. He retired his license in 2025. Along the way, he worked with some of the best lawyers in the country and was able to influence several generations of attorneys.

John chose estate planning, enjoying the transactional practice, where, in his words, he could "…provide solutions for [his] clients that provided them with beneficial results." He was a problem solver, thinking through scenarios, and enjoyed brainstorming solutions with a team.

John was a teacher at heart, and he contributed tremendously to the practice in Michigan. He participated in over 100 (yes, you read that right) seminars through ICLE during his career. He was an adjunct professor at both U-M Law School and Cooley Law School where he taught estate planning and estate and gift tax. John mentored dozens of attorneys personally, and through his ICLE contributions, he taught hundreds (maybe thousands) more about estate planning and elder law.

John was an innovator. As one of the first Michigan attorneys to practice in elder law in the late 1970s, he helped shape the practice. John began with Medicare and Medicaid, created under Lyndon Johnson's "Great Society." With his background in estate planning and collaborating with legal aid attorneys like David Shaltz, John developed the Solely for the Benefit of Trust (SBO), a tool instrumental in protecting assets for married couples and used commonly in Michigan Medicaid planning. Working with ICLE, he helped develop and produce the Annual Medicaid & Health Care Planning Update for many years. On the estate side, John helped establish the Probate and Estate Planning Certificate Program through ICLE in the early 2000s.

He took great pride in his drafting and was continuously honing his skills. John was never convinced a document was finished; he saw estate planning as a process, and the documents he created as living creatures, made to be adjusted as laws and people changed. Later in his career, John became a sought-after expert witness for estate planning and elder law matters throughout the state.

John and his wife Jewel ("Jay") met at Michigan State University and were married over 61 years. They had three children, Julie, Jon, and Jeff, as well as six grandchildren, and were the parents of many spoiled dogs over the years. John and Jay worked as a team, with Jay working in the office while John had a solo practice. They traveled extensively throughout the world, visiting places such as China, Egypt, England, the Galapagos Islands, Africa, and more, often with their children and grandchildren. Before a trip, John studied up on the destination and always came home having learned more. John and Jay were also civic minded and contributed to causes close to their hearts, including the Capital Area Humane Society, the YMCA, Michigan State University, and more.

John Bos leaves a legacy in the attorneys who have learned from him and in those who strive to find solutions with beneficial results for their clients. So the next time you draft an SBO, or enjoy strategizing to find a better solution for your client, pause a minute to think about John. I know I will.

## *New Conservatorship Law Takes Effect Immediately*

*By Christine Caswell, Caswell Law PLLC, Lansing*

Under MCL 700.5423(3), a conservator cannot sell, mortgage, pledge, lease for more than five years, or otherwise dispose of a protected individual's principal dwelling or real property without explicit court approval.

However, Senate Bill 585, enacted on July 23, 2026, and taking effect **immediately**, requires that a conservator have an appraisal for real property conducted by an official appraiser in the past six months before selling a protected person's property.

This new requirement is intended to prevent fraudulent practices where a conservator sells property well below Fair Market Value (FMV) to a friend or relative. However, a conservator should already be providing the court with documents showing why it is fair to sell the property for the going price, and a probate judge should be reviewing those documents to ensure that the conservator is acting in good faith. Protections are already in place.

Under this new bill, however, both conservators and judges have added responsibilities. Previously conservators could use property tax statements or realtor comparisons to assess FMV and would supply those documents with the petition to justify the agreed upon price. Hence, the "evidence" to be provided before the formal hearing. Now conservators must add an additional layer of evidence with an appraisal, attributing costs to the protected person who may not have the funds. Moreover, appraisals do not include all of the disrepair to a home. It was suggested that the conservator should get an inspection first to inform the appraiser of known issues, but this again puts additional financial burden on the protected person and adds to the conservator's liability.

As a conservator and fiduciary, I have sold a number of properties. The first time I used an appraiser, the value came in at more than $200,000. After the buyer's inspector went through, we sold it—with the court's approval—for $160,000.

Homes under conservatorship are often abandoned, have people living in them who do maintain the home (think kids with substance abuse issues), or have been used for hoarding. Appraisals do not take this into consideration. In all of my years as a fiduciary, only one home has sold for close to the asking price. Once a buyer's inspection is done, the value of the property drops quickly. I was hoping during the sellers' boom in the early 2020s that a home would sell sight unseen. It didn't. The buyers wanted an inspection, and it was discovered that the room the previous owner had added to the house was now falling off. Another time, when a liquidator cleared out a home with hoarding, we learned that one wall was no longer attached

to the floor. And every home has mold. We even had to drop the price of the home that sold for nearly asking price because it needed $4,000 in mold remediation.

Moreover, this new law requires more work for probate judges. I have never sold a protected person's home without the court's approval. For the property that sold for $160,000, I included the inspector's 40-page review as evidence. But now, if a judge approves the sale at a reduced price, the judge must provide an explanation as to why he or she is doing so. The evidence alone is not enough.

While this bill had the intention of protecting vulnerable people, no probate attorneys or probate judges were consulted. No hearings were held. No legislators considered that many protected persons are destitute and cannot afford to pay an appraiser. ELDRS even put in a public policy position indicating the Section's lack of support for the bill. But, for now, this is what we are stuck with.

## *Legislative Update*

*By Todd Tennis, Capitol Services, Inc.*

**Budget Completed – What Remains for this Legislature?**

In early July, the House and Senate presented budget bills to the governor for her signature. She signed the 2026-27 budget into law on July 21 with no line-item vetoes. The only piece of legislation that the Michigan Legislature must pass every year is the budget, and now that they have completed that task, the big question is what more will they do this year?

The current legislative cycle has just a little more than four months remaining, and if the rate of bill passage remains at the same glacial pace we have seen for the past 18 months, we will see the least number of new bills signed into law in a two-year legislative cycle since the 1840s. The lack of legislative action is partially due to the division of power in the House and Senate. Democrats maintain a narrow majority in the Senate, while Republicans control the House. The two chambers have had difficulty negotiating on final passage of bills, which has slowed the process considerably. In addition, judging from statements made by Speaker of the House Matt Hall, this slow process has been more of a feature than a bug in the system. Speaker Hall has spoken highly of the low number of bills being signed into law indicating his belief that fewer bills passing into law is a triumph in good governing.

The notion that less government is better government is not new. President Ronald Reagan made an entire political movement around it, and it has endured in one form or another throughout the decades in a bipartisan manner. Rapid changes in laws can certainly create problems in implementation and public acceptance, so a slower pace tends to create a more stable political environment.

However, that thinking only applies to major statutory changes, which are quite rare. What many people do not know is that the majority of bills pass the Michigan House and Senate with overwhelming majorities. They are not partisan, controversial, highly politicized issues. Instead, they are most often simple updates to existing laws made to account for changes in technology and societal habits.

For example, since the beginning of this two-year legislative term, ELDRS has been working on several packages of bills that would tweak pension systems, Medicaid long-term care eligibility, and remote notarization and witnessing policies. Each of these legislative packages have bipartisan sponsors and are not seen as controversial. However, they nonetheless have stalled somewhere in the lengthy legislative process.

There are hundreds of similar bills spanning policy areas ranging from taxation to environmental protection, from transportation to health care, that sit idle either in committee or on the House or Senate floor. While there will always be a handful of truly monumental policy proposals that spark controversy and simply are impossible to pass in a partisan environment, hundreds of bills are ready for passage without opposition if only the legislature will move them. They do not expand government; they would merely improve its function.

So, the question for the rest of this legislative cycle is – how much more will the legislature actually do? We do not expect them to be in session at all in August as many of the members are campaigning for reelection. There could be a few session days in September, but it is likely there will be none in October. After the election there is normally a “lame duck” session for a few weeks before the newly elected legislature is seated in January, but at this point it does not seem like very much action will take place then either. While we will continue to advocate for bills that will make ELDRS clients’ lives better, we will likely need to begin again in 2027. For example, the MI-Choice waiver would see a substantial increase in the governor’s and Senate’s budget (increasing to a little over $600 million), while the House would peg it at $586 million. This is typical of the House strategy this year, which looks at making relatively minor reductions (or smaller increases) to several programs instead of eliminating them wholesale.

The budget process is also happening in the shadow of several property tax reform proposals that could have an impact on the final appropriation deal. The governor and Senate leaders have proposed various degrees of property tax relief aimed mostly at senior citizens. The House has a bolder plan that would make massive cuts in property taxes, while much of the revenue loss would be replaced by applying the sales tax to various services. The details are vague on the latter point, but it is reminiscent of the time the legislature looked at a sales tax on services over a decade ago, a process that ended with the idea being scrapped due to its complexity and seeming arbitrariness.

While the legislature has been focused on the budget process, there has been some movement of other policy bills of interest to ELDRS.

**Pension Assignment Bills Reported from House Judiciary Committee**

On April 15, the House Judiciary Committee reported out a package of bills, backed by ELDRS, aimed at protecting adult children of retirees in a state operated pension system. House Bills 4657-4660 were introduced by Rep. Tyrone Carter (D-Detroit), Rep. Stephanie Young (D-Detroit), Rep. Kara Hope (D-Delhi Twp.), and Rep. Doug Wozniak (R-Shelby Twp.). They seek to allow survivor pension benefits to be placed in a trust to avoid possible complications with the recipient's means-tested disability benefits. The bills were supported unanimously by the House Committee and are now awaiting action on the House floor.

**Remote Witnessing Bills Still Awaiting Last Piece of Puzzle**

Earlier this year, ELDRS was successful in having introduced a pair of bills amending the Michigan Law on Notarial Acts and the Uniform Power of Attorney Act. Rep. Sarah Lightner (R-Spring Lake), the chair of the House Judiciary Committee and the key sponsor of the act, had stated a goal of moving the bills from the Judiciary Committee in May or June. We are still awaiting the introduction of the last bill in the package that would amend EPIC to allow for remote witnessing of legal documents. We are hopeful that this third bill can be introduced soon and the package can move in the House.

**Bills Impacting How Conservators and Guardians Address Property Reported from Committee**

A pair of bills aimed at providing additional oversight on conservators and guardians was reported from the House Families and Veterans Committee on April 28. House Bills 5739 and 5740 were introduced by Rep. Jay DeBoyer (R-St. Clair County) and Rep. Kathy Schmaltz (R-Jackson). The focus of both bills is to add court oversight in situations where a protected person receives or accumulates assets exceeding $25,000. Guardians and conservators would be required to notify the court of the assets and "petition the court for instructions on what to do with the property." The bills are intended to provide greater transparency in cases where a protected person receives a windfall from the sale of property, an inheritance, or some other source. Instead of being referred directly to the House floor, they were referred to the House Rules Committee for further review.

**Death with Dignity Package Introduced**

A package of bills was introduced in the House in late April seeking to create a new Death with Dignity Act. House Bills 5825-5828, sponsored by Rep. Edwards (D-Detroit), Rep. Paiz (D-Detroit), Rep. Rheingans (D-Ann Arbor), and Rep. Brenda Carter (D-Detroit) would allow terminally ill individuals to request life-ending medication from a physician. The bills also amend regulatory and insurance codes to allow for this practice. To be eligible, an individual

would have to suffer from a terminal disease with a life expectancy of no more than six months. They would also be provided counseling in alternative options such as hospice care.

A similar package of bills was introduced last session but did not move. The legislation faces opposition from the Michigan Catholic Conference as well as most medical professional associations. These bills were referred to the House Government Operations Committee which basically ensures that they will not move any further.

**ELDRS Tracked Legislation:**

**HB 4408** Trusts (Wozniak)
Revises powers of appointment.
Text/Analysis
Reported in House (4/29/2026; By Judiciary Committee)

**HB 4412** Hospitalization (Steele)
Revises person requiring treatment and modifies certain procedures for treatment.
Text/Analysis
Received in Senate (3/24/2026; To Health Policy Committee)

**HB 4413** Outpatient Treatment (Tisdel)
Expands hospital evaluations for assisted outpatient treatment.
Text/Analysis
Received in Senate (3/24/2026; To Health Policy Committee)

**HB 4414** Outpatient Treatment (Kuhn)
Provides outpatient treatment for misdemeanor offenders with mental health issues.
Text/Analysis
Received in Senate (3/24/2026; To Health Policy Committee)

**HB 4418** Probate (Thompson)
Allows designation of a patient surrogate for health care decisions.
Text/Analysis
Reported in Senate (1/29/2026; S-3 substitute adopted; By Civil Rights, Judiciary and Public Safety Committee)

**HB 4419** Probate (Witwer)
Allows designation of a patient surrogate for health care decisions.
Text/Analysis
Reported in Senate (1/29/2026; By Civil Rights, Judiciary and Public Safety Committee)

**HB 4523** Trusts (Wozniak)
Modifies duties and powers of trustee.
Text/Analysis
Reported in House (4/29/2026; By Judiciary Committee)

**HB 4657** Trusts (Carter, T.)
Allows naming a special needs trust as beneficiary.
Text/Analysis
Reported in House (4/15/2026; By Judiciary Committee)

**HB 4658** Trusts (Young)
Allows naming a special needs trust as beneficiary.
Text/Analysis
Reported in House (4/15/2026; By Judiciary Committee)

**HB 4659** Trusts (Hope)
Allows naming a special needs trust as beneficiary.
Text/Analysis
Reported in House (4/15/2026; By Judiciary Committee)

**HB 4660** Trusts (Wozniak)
Allows naming a special needs trust as beneficiary.
Text/Analysis
Reported in House (4/15/2026; By Judiciary Committee)

**HB 4696** Guardians (Meerman)
Modifies definition of relative under the guardianship assistance act.
Text/Analysis
Received in Senate (4/21/2026; To Housing and Human Services Committee)

**HB 4697** Guardians (Young)
Modifies eligibility for guardianship assistance payments.
Text/Analysis
Received in Senate (4/21/2026; To Housing and Human Services Committee)

**HB 4734** County Services (BeGole)
Allows designation of a patient surrogate for health care decisions.
Text/Analysis
Reported in Senate (1/29/2026; By Civil Rights, Judiciary and Public Safety Committee)

**HB 5387** Veterans (Cavitt)
Includes missing veterans at risk in the missing senior or vulnerable adult alert.
Text/Analysis
Received in Senate (3/24/2026; To Veterans and Emergency Services Committee)

**HB 5405** Medical Services (Wozniak)
Allows certain personal service agreements.
Text/Analysis
Introduced (12/18/2025; To Health Policy Committee)

**HB 5658** Occupations - Notaries Public (Lightner)
Modifies and expands use of communication technology to perform electronic notarizations and remote electronic notarizations.
Text/Analysis
Introduced (3/3/2026; To Judiciary Committee)

**HB 5659** Powers of Attorney (Lightner)
Allows use of two-way real-time audiovisual technology to execute a power of attorney.
Text/Analysis
Introduced (3/3/2026; To Judiciary Committee)

**HB 5701** Probate (Wozniak)
Allows for electronic signature of wills.
Text/Analysis
Introduced (3/10/2026; To Judiciary Committee)

**HB 5739** Guardians and Conservators (DeBoyer)
Modifies powers and duties.
Text/Analysis
Committee Hearing in House Families and Veterans Committee (4/28/2026)

**HB 5740** Guardians and Conservators (Schmaltz)
Provides requirements upon discovery of certain assets.
Text/Analysis
Committee Hearing in House Families and Veterans Committee (4/28/2026)

**HB 5825** Death (Edwards)
Creates death with dignity act.
Text/Analysis
Introduced (4/21/2026; To Government Operations Committee)

**HB 5826** Death (Paiz)
Prohibits licensing sanctions for compliance with death with dignity act under certain circumstances.
Text/Analysis
Introduced (4/21/2026; To Government Operations Committee)

**HB 5827** Death (Rheingans)
Establishes sentencing guidelines for crimes under the death with dignity act.
Text/Analysis
Introduced (4/21/2026; To Government Operations Committee)

**HB 5828** Death (Carter, B.)
Prohibits invoking suicide clauses in insurance policies if in compliance with death with dignity act.
Text/Analysis
Introduced (4/21/2026; To Government Operations Committee)

**SB 351** Solicitation (Cavanagh)
Creates telephone solicitation act.
Text/Analysis
Received in House (2/3/2026; To Regulatory Reform Committee)

**SB 352** Solicitation (Victory)
Prohibits filing fees for attorney general in enforcing the telephone solicitation act.
Text/Analysis
Received in House (2/3/2026; To Regulatory Reform Committee)

**SB 353** Trade Practices (Moss)
Revises unfair trade practices relating to deceptive telephone solicitations.
Text/Analysis
Received in House (2/3/2026; To Regulatory Reform Committee)

**SB 354** Solicitations (Anthony)
Removes provisions relating to the regulation of home solicitations and telephone solicitations.
Text/Analysis
Received in House (2/3/2026; To Regulatory Reform Committee)

## *Silver Alert Legislation Protects Seniors and Vulnerable Adults*

Senate Bill 456**,** sponsored by Sen. Mallory McMorrow (D-Royal Oak) and signed by Gov. Whitmer on July 23, creates a statewide Silver Alert system to quickly notify the public when a senior or vulnerable adult goes missing. The system allows Michigan State Police to send emergency alerts directly to cell phones, helping communities respond more quickly and bring people home safely.

According to the Alzheimer's Association, around six in 10 people with dementia will wander. Wandering can quickly become life threatening due to exposure, traffic hazards, dehydration, or confusion. The first 24 hours are critical in safely recovering vulnerable adults. Silver Alerts are designed to quickly locate missing older and vulnerable adults, especially those with Alzheimer's disease, dementia, or other cognitive impairments.

## *Calendar of Events*

*By Erma S. Yarbrough-Thomas, Neighborhood Legal Services Michigan Elder Law & Advocacy Center, Redford*

**ELDRS –** www.michbar.org/elderlaw

Council Meetings

- TBA for 2026-27

ELDRS Events

- 2026 Fall Conference **-** September 23-25**,** Embassy Suites**,** Grand Rapids

**NAELA** – www.naela.org

- Aug. 19-21 - 2026 Council for Advanced Practitioners Program (CAP), Embassy Suites, 511 N Columbus Drive, Chicago, IL 60611
- Aug. 19 - 7 pm - Elder & Special Needs Law Networking, Sky Garden, Embassy Suites, 511 N Columbus Drive, Chicago, IL 60611
- Sept. 30 - 1-2 PM EDT - Navigating LTSS: Eligibility, Funding & Planning Updates Webinar, Presenter, Lauren Marinaro, Fink Rosner Erschow-Levenberg Marinaro, LLC, Clark, NJ
- Oct. 1 - 1 pm - Guardianship Law in Your Practice-from Foundation to Advanced
- Oct. 8 - 1-4:30 pm EDT - Webinar. Day 1: Foundations of a Guardianship Practice. Day 2: Advanced Issues & Emerging Challenges

**ICLE/SBM – www.icle.org**

- Sept. 15 - 9 am-3:30 pm - Drafting an Estate Plan, In Person, Morris Lawrence Building at Washtenaw Community College, Ann Arbor, Speaker, Douglas A. Mielock, Foster Swift Collins & Smith PC, Lansing
- Oct. 8 - 9 am-4:20 pm - Basics of Advising Elderly Clients and those with Disabilities, Livestream, Presenters, Rosemary H. Buhl, Buhl Little Lynwood & Harris, PC, East Lansing; Arthur L. Malisow, Mall Malisow & Cooney PC, Farmington Hills; Charles S. Ofstein, DeMent & Marquardt, PLC, Kalamazoo; Kelli M. King-Penner, Mannor Law Group, PLLC, Grand Blanc; and Sanford J. Mall, Mall Malisow & Cooney PC, Farmington Hills
- Oct. 22 - 9 am-12:10 pm - Retirement Benefits Payable to a Trust: Planning, Drafting & Administration After Secure 2.0, Speaker Natalie B. Choate, Ataxplan Publication, Wellesley, MA