

# Index

## **ABANDONMENT**

- Attorney-in-fact liability, **6:43**
- Medicaid fair hearing request, **16:14**

## **ABUSE**

- Generally, **1:6**
- Nursing home residents, abuse of, **1:6, 19:25, 19:26**

## **ACADEMY OF SPECIAL NEEDS PLANNERS**

- Generally, **3:32**

## **ACCEPTANCE**

- Medicaid benefits
  - Fair hearing notice, **16:6**
  - Written notification of accepting, **13:54**
- Power of attorney, acceptance of, **6:4**

## **ACCESS TO LAW OFFICE**

- Generally, **3:11**

## **ACCOUNTS AND ACCOUNTING**

- Article 17A guardianships, **9:18**
- Banks and Banking, this index
- Guardianships
  - Annual accounts of, **9:23, 9:24**
  - Decree upon approving accounts, form, **8:89**
  - Initial inventory and account, form, **8:88**
  - Medical savings account plan, **12:83, 12:87**
- Referral to accountant, **3:32**
- Retirement and Pension Plans, this index

## **ACKNOWLEDGMENT**

- Receipt of documents, **3:39**

## **ACTIONS AND PROCEEDINGS**

- Consolidated Medicaid fair hearings, **16:27**
- Medicaid support actions, pursuing excess resources or income from

## **ACTIONS AND PROCEEDINGS**

### **—Cont'd**

- legally responsible relatives, **13:29-13:34**
- Nursing home negligence or abuse, **19:26**
- Powers of attorney, **6:23, 6:31**

## **ACTIVITIES OF DAILY LIVING**

- Defined, **8:4**

## **ADJOURNMENT**

- Medicaid fair hearings, **16:21, 16:37**
- Online, **16:40**

## **ADMINISTRATIVE LAW AND PROCEEDINGS**

- Medicaid fair hearings, this index

## **ADMINISTRATIVE STARE DECISIS**

- Medicaid fair hearings, **16:35**

## **ADULT DAY CARE**

- Defined, **18:3**

## **ADULT HOMES**

- Alternative housing option, **19:31**
- Medicaid coverage, income limitations for patient eligibility, **14:2**
- Medicaid payment structure, counties' fiscal responsibility, **13:9**

## **ADVANCE DIRECTIVES**

- See also specific directive by name
- Client consultation, **3:21**
- Living wills, this index
- Patient Self-Determination Act, **7:31**
- Storage and safekeeping, **3:30**
- Using, **2:8**

## **AFFIDAVITS**

- Powers of attorney
  - Full force and effect, **6:52**
  - "X" signature, **6:9**

**AFFIDAVITS—Cont'd**

- Wills
  - Renunciation, **22:27, 22:28, 22:48**
  - Subscribing witnesses, **22:24, 22:46**

**AGE DISCRIMINATION ACT OF 1975**

- Generally, **1:5**

**AGE DISCRIMINATION IN EMPLOYMENT ACT**

- Generally, **1:5**

**AGED PERSONS**

- Aging process, understanding, **1:4**
- Autonomy of elderly client, **1:8**
- Client, elder law, **1:2-1:9**
- History and development of elder law, **1:1**
- Medicaid eligibility requirements, **13:16**
- Perspective of elderly client, **1:7**
- Supplemental Security Income (SSI), this index
- Who are the elderly, **1:3**
- Why we should help protect their assets, **1:3**

**AGENT ORANGE**

- Service-connected medical condition presumed, **11:4**
- Settlement funds as Medicaid exempt income, **14:10, 14:22**

**AGENTS AND AGENCY**

- Attorney-in-fact, this index
- Health Care Proxy, this index
- Powers of Attorney, this index

**AGING PROCESS**

- Attorney's understanding, **1:4**
- Who are the elderly, **1:3**

**AID AND ATTENDANCE**

- Assisted Living Facilities, this index
- Veteran's pension benefits for Survivors of veteran, **11:27**
- Veteran, **11:19-11:21**

**ALCOHOLISM**

- Guardianship of facility's resident, **8:4, 8:7**

**ALERTS AS TO CHANGED LAW**

- Marketing device for getting clients, **5:4, 5:5**

**ALIENS**

- Medicaid eligibility, **13:15**
- Social security, eligibility for, **10:22**
- Supplemental security income (SSI), **10:22, 10:53**

**ALLEGED INCAPACITATED PERSON**

- See also Guardians and Guardianships, this index
- Generally, **8:1**

**ALS (LOU GEHRIG'S DISEASE)**

- Medicare (Part A) coverage, **12:6**

**ALTERATION**

- See Amendment or Modification, this index

**AMENDMENTS AND MODIFICATIONS**

- Guardianships
  - Article 17A guardianships order, **9:16**
  - Powers of guardian, **8:57**

**AMERICAN INDIANS, PAYMENTS TO**

- Medicaid, exempt income, **14:10, 14:22**

**ANNUITIES**

- Client questionnaire, **3:7**
- Medicaid income, resources, transfers and spousal impoverishment, **14:1, 14:25**

**ANTENUPTIAL AGREEMENTS**

- Requesting client to provide, **3:5**
- Wills, waiver of right of election, **22:26**

**APPEALS AND REVIEWS**

- Fiscal intermediaries, **12:18, 12:42**

## INDEX

### APPEALS AND REVIEWS—Cont'd

- Judicial review by federal district court
  - Medicare Part A decisions, **12:53**
  - Medicare Part B decisions, **12:82**
- Managed care, health maintenance organization (HMO), **12:95, 12:96**
- Medicaid decisions, **13:57, 13:58, 16:32, 16:36**
  - DRA transfers, **13:56**
- Medicare administrative contractors (MACs), **12:44**
- Medicare Part A coverage decisions
  - General overview, **12:14, 12:42**
  - Administrative law judge hearings, **12:45-12:51, 12:100**
  - Fiscal intermediaries, **12:18, 12:42**
- Judicial review, district court, **12:53**
- Medical necessity for hospitalization, **12:14**
- Most common ground for denial, **12:26**
- Peer Review Organization (PRO), **12:14, 12:43**
  - Request for hearing
    - Form, **12:99, 12:100**
  - Social security appeals council, **12:52**
- Medicare Part B coverage decisions, **12:82**
- Nursing homes, long term care ombudsman program, **19:23**
- Peer Review Organization (PRO), **12:14, 12:43**
- Social security appeals council, **12:52, 12:53**
- Supplemental security income (SSI), **10:52**

### APPLICATIONS

- See specific index headings

### APPOINTMENT

- Guardianship proceedings, this index
- Powers. Powers of Appointment, this index

### ARMED FORCES

- Military Persons, this index

### ARTICLE 81, GUARDIANSHIP PROCEEDING

- Guardians and Guardianships, this index

### ARTICLE 17A, GUARDIANSHIP PROCEEDING

- Guardians and Guardianships, this index

### ARTICLES 81 AND 83, MENTAL HYGIENE LAW

- Generally, **8:1**

### ARTIFICIAL NUTRITION OR HYDRATION

- Case histories, **7:47 et seq.**
- Health care decisions, **7:2, 7:14, 7:48**

### ASSET PROTECTION TRUSTS

- Living trusts, **21:8**

### ASSETS

- Asset Protection Trusts
  - Living trusts, **21:8**
  - Long term capital gains, **20:17**
  - Medicaid, assets transfer.
    - Medicaid, this index
  - Planning approach to protect ill spouse
    - Estate of § 2,000,000, **23:14**
    - Requiring home care, **23:12**
    - Requiring home care and possibly nursing home care, **23:11**
    - Requiring nursing home care, **23:15, 23:16**
    - Requiring nursing home care/caregiver child, **23:16**
  - Married couples
    - Estate of § 3,500,000, **23:8**
  - Single individuals
    - In good health, **23:3**
    - Requiring home care, **23:4**
  - Wills, **22:2**
- Inventory of assets, client questionnaire, **3:7**

**ASSIGNMENTS**

- Medicaid, this index
- Medicare part A benefits, **12:18**

**ASSISTED LIVING FACILITIES**

- Generally, **18:1, 19:30**
- See also Continuing Care Retirement Communities, this index
- Defined, **18:3, 19:30**
- Medicaid coverage, income limitations for patient eligibility, **14:2**
- Medicaid payment structure, counties' fiscal responsibility, **13:9**
- Veteran's pension benefits, **11:21**

**ATTENDANCE**

- Medicaid fair hearings, **16:25, 16:26**

**ATTENDANCE BENEFITS**

- Veteran's pension benefits
- Survivor's benefits, **11:27**
- Veteran, **11:19-11:21**

**ATTORNEY-CLIENT  
RELATIONSHIP**

- Generally, **3:1 et seq.**
- Accessibility to office, **3:11**
- Aging process, understanding, **1:4**
- Autonomy of client, **1:8**
- Beneficiary in will, attorney as, **22:18**
- Certification as elder law specialist, **1:9**
- Client questionnaire. Questionnaire, elder law client, below
- Closing letter, **3:31, 3:38**
- Communication among family, **3:19**
- Communication with client, **3:18**
- Consultation. Initial meeting consultation, below
- Decor of office, **3:11**
- Developing relationship with client, **3:17**
- Documents, this index
- Elder law attorney, generally, **1:9**
- Elder law client, generally
- Generally, **1:2**
- Perspective of elderly client, **1:7**
- Questionnaire, elder law client, below

**ATTORNEY-CLIENT**

**RELATIONSHIP—Cont'd**

- Elder law client, generally—Cont'd
- Understanding the aging process, **1:4**
- Who are the elderly, **1:3**
- Why should we help them protect their assets, **1:3**
- Engagement letter, **3:23**
- Ethics, this index
- Fees. Attorneys' Fees, this index
- Guardianship proceedings
- Generally, **8:11**
- Affirmation of attorney services, form, **8:93**
- Health care proxy, attorney's duty, **7:22**
- Initial calls by potential clients, tracking, **5:9**
- Initial meeting consultation
- Generally, **3:10 et seq.**
- Advance directives, **3:21**
- Communication with client, **3:18**
- Communication with family, **3:19**
- Developing relationship with client, **3:17**
- Documents, request for and review of client's, **3:5**
- Engagement letter, **3:23**
- Fee agreement, **3:23**
- Follow up consultation, **3:25, 3:29**
- Memorandum to file summarizing, **3:37**
- Mental capacity of client, generally, **3:14**
- Note taking, **3:14, 3:16, 3:29**
- Objectives of client
- Confirming, **3:24**
- Determining, **3:15**
- Office accessibility and decor, **3:11**
- Overview, **3:10**
- Post consultation analysis report, **3:24**
- Post consultation letter, **3:24**
- Prior transfers, **3:20**
- Privacy of client, **3:18**
- Questionnaire, use of, **3:2**
- Retainer, **3:23**

## INDEX

### ATTORNEY-CLIENT

#### RELATIONSHIP—Cont'd

Initial meeting consultation—Cont'd  
Special needs clients, meeting  
with, **2:2, 2:8**

Trusts, **3:22**  
virtual consultations, **3:12**  
Wills, **3:22**

Joint representation agreement  
Form, **1:20**  
Medicaid planning, ethical issues,  
**1:16, 15:29**

Legal and aging organizations,  
relationships with, **3:33**

Marketing to existing clients, **5:4, 5:5**  
Meeting. Initial meeting consultation,  
above

Memorandum to file summarizing  
consultation and post consulta-  
tion letter, form, **3:37**

Mental capacity, **3:14**  
Mental capacity necessity, **6:1, 6:9**  
Note taking, **3:14, 3:16, 3:29**

Objectives of client  
Confirming, **3:24**  
Determining, **3:15**

Office accessibility and decor, **3:11**  
Other professionals, working with,  
**3:32, 5:11**

Perspective of client, **1:7**

Questionnaire, elder law client  
Generally, **3:2**  
Advance directives, **3:21**  
Annuities, **3:7**  
Assets, inventory, **3:7**  
Bank accounts, **3:6, 3:7**  
Business interests, **3:7**  
Completed questionnaire, form,  
**3:37**

Debts, **3:9**  
Documents, **3:5, 3:10, 3:36**  
Financial information, **3:6, 3:7**  
Form, **3:37**  
Health and long term care insur-  
ance, **3:4**  
Inventory of assets, **3:7**  
Liabilities, **3:9**  
Life insurance, **3:7**

### ATTORNEY-CLIENT

#### RELATIONSHIP—Cont'd

Questionnaire, elder law client  
—Cont'd

Mobile homes, **3:7**  
Personal information, **3:3**  
Personal property, **3:7**  
Prior transfers, **3:8**  
Real estate, **3:7**  
Retirement benefits, **3:7**  
Safe deposit box, **3:7**  
Stocks and bonds, **3:7**  
Time shares, **3:7**

Referrals from existing clients, **4:8,**  
**5:5**

Regulation of attorney, **1:9**

Role of elder law attorneys, **1:9**

Specialization as elder law attorney,  
**1:9**

Special needs planning attorney, **2:1-**  
**2:5**

Valuing attorney's service, **5:13**

Veterans benefits assistance, attorney  
accreditation requirement, **11:33**

Virtual consultations, **3:12**

Who are the elderly, **1:3**

Why protect assets of the elderly, **1:2**

Will, naming attorney as beneficiary,  
**22:18**

### ATTORNEY-IN-FACT

Generally, **6:2**  
Duties as fiduciary, **6:47**  
Fiduciary, duties as, **6:47**  
Joint attorneys-in-fact, **6:12**  
Multiple agents, **6:12**  
Powers, generally. Powers of  
Attorney, this index  
Selection, **6:12**  
Self-dealing, **6:47**  
Separate actions by multiple agents,  
**6:12**

### ATTORNEYS

Associate marketing compensation,  
**5:9**  
Certification and regulation of  
attorney, **1:9**

**ATTORNEYS—Cont'd**

- Client relationship. Attorney-Client Relationship, this index
- Developing the successful practice
  - Generally, **5:1 et seq.**
  - For detailed treatment see Managing and Developing the Successful Practice
- Ethics, this index
- Experience of attorney practicing elder law, **1:9**
- Fees. Attorneys' Fees, this index
- Firm meetings, **4:12**
- Firm retreat, **4:12**
- Other professionals, working with, **3:32**
- Practice of Elder Law, this index
- Referral sources, marketing to, **5:10**
- Specialization as elder law attorney, **1:9**
- Special needs planner, as, **2:1, 2:2**
- Today's market place, **1:22, 1:23**
- Tools of elder law attorney, **1:19**
- Tort attorneys as valuable contacts for elder law and special needs attorneys, **2:8**
- Value to consumer, **1:23**
- Veterans benefits assistance
  - Attorney accreditation requirement, **11:33**
  - Attorney fees, **11:34**
- Websites, marketing, **5:8**
- Working with out of state elder law attorneys, **3:32**

**ATTORNEYS' FEES**

- Accounts receivable, **4:10**
- Client consultation, **3:23**
- Collection of, **4:10**
- Fixed fee, **3:23, 4:7, 4:10**
- Guardianships, **8:22, 8:75, 8:93**
- Hourly fee, **3:23**
- Lien, Medicaid, **17:20**
- Marketing compensation for associate, **5:9**
- Medicare hearings before administrative law judge, **12:46**
- Payment, **3:23**
- Retainer, **3:23, 4:7, 4:12**

**ATTORNEYS' FEES—Cont'd**

- Supplemental security income, **10:52**
- Timekeeping aspect of practice management, **4:5, 4:6, 5:2**
- Types, **3:23**
- Veterans benefits assistance, **11:34**

**AUTOMOBILE**

- Medicaid lien, accident proceeds, **17:19**
- Supplemental security income (SSI) exemption, **10:41**

**AVAILABLE RESOURCES**

- Defined, **8:4**

**BANKS AND BANKING**

- See also Financial Institutions, this index
- Inventory of assets, client questionnaire, **3:6, 3:7**
- Joint bank account, **15:8**
- Medical savings account plan, **12:83, 12:87**
- Outright gift of bank account
  - Generally, **15:4**
  - Titling of asset, **15:8**
- Powers of attorney
  - Acceptance, **6:4**
  - Enumerated powers, **6:19**
- Safe deposit boxes, this index

**BEDS**

- Bed holds, **19:20**
- Beds or units, **19:3**

**BEREAVEMENT SERVICES**

- Hospice, Medicare Part A coverage, **12:39**

**BLIND PERSONS**

- Medicaid eligibility requirements, **13:18, 14:12**
- Social security disability benefits, **10:33**

**BLOOD TRANSFUSIONS**

- Medicare Part A coverage, **12:12, 12:13, 12:30**

## INDEX

### **BOARD OF COOPERATIVE EDUCATION SERVICES (BOCES)**

Special needs, education for students  
with, **2:4**

### **BONDS**

Attorney-in-fact powers, **6:18**  
Client questionnaire, **3:7**  
Guardianships, **8:44, 8:61**  
Jointly held assets, **7:53**

### **BUDGETS**

Managing and Developing the Suc-  
cessful Practice, this index

### **BURDEN OF PROOF**

Guardianships, hearings, **8:14**  
Medicaid fair hearings, **16:23, 16:24**

### **BURIAL FUNDS OR SPACE**

Medicaid, exempt resource, **14:17,**  
**14:18**  
Supplemental security income (SSI)  
exemption, **10:41**  
Veterans, **11:3, 11:32**

### **BUSINESSES**

Client questionnaire, business  
interests information, **3:7**  
Powers of attorney, business operat-  
ing transactions, **6:20, 6:38**

### **CAPACITY**

Client's mental capacity, **3:14**  
Client's mental capacity, require-  
ment, **6:1, 6:9**  
Death, proceedings upon, **8:76**  
Guardian's appointment, effect of,  
**8:48**  
Health care proxies, **7:6**  
Incapacitated person and criminal  
action, guardians and guardian-  
ships, **8:78**  
Powers of attorney, **6:1, 6:9**  
Residence of institutionalized  
persons, determining, **13:10**

### **CAPITAL GAINS**

Long term capital assets, sale, **20:17**

### **CARDIOPULMONARY RESUSCITATION (CPR)**

Withholding, do not resuscitate  
orders, **7:41**

### **CAREGIVER ADVISE, RECORD, AND ENABLE ACT**

Health care, **7:30**

### **CAREGIVERS**

Practice of special needs, planning  
with the caregivers, **2:9**

### **CASE STUDIES**

Generally, **23:1**  
Planning for an ill spouse requiring  
home care  
Generally, **23:10**  
Husband needs home care (wife in  
good health in community),  
**23:12**  
Ill spouse requires home care,  
**23:11**  
Planning for an ill spouse requiring  
nursing home care  
Generally, **23:15**  
Estate of § 2,000,000, **23:14**  
Husband needs nursing home care  
(wife in good health in com-  
munity), **23:12**  
Residence co-occupied with sib-  
ling, **23:17**  
Second stage planning for com-  
munity spouse, **23:18**  
Planning for married couple when  
both spouses require care, **23:19**  
Planning for Medicaid eligibility of  
husband and/or wife, **23:6**  
Planning for the healthy married  
couple  
Generally, **23:7**  
Adult child who has special needs,  
**23:9**  
Estate of § 3,500,000, **23:8**  
Planning for the single individual  
Generally, **23:2 et seq.**  
In good health, **23:3**  
Requires nursing home care, **23:5**

### **CATHOLIC HEALTH CARE**

Health care proxy, **7:27**

**CATHOLIC MEDICAL  
DIRECTIVE**

Living will, **7:35**

**CEMETERIES**

Veterans benefits, **11:3, 11:32**

**CERTIFICATES AND  
CERTIFICATION**

Blindness certificate, Medicaid  
eligibility requirement, **13:18**

Elder law attorney, certification as,  
**1:9**

Guardianship filings, **8:7**

Medicaid eligibility, **13:53, 13:59,  
13:60, 13:67**

Medicare Part A, physician's certifi-  
cate of medical necessity for  
hospitalization, **12:14**

Springing power of attorney, certify-  
ing event triggering, **6:11**

**CHARTS**

See also Checklists; Tables, this  
index

Standard medicare supplemental  
plans, ten, **12:98**

**CHECKLISTS**

See also Charts; Tables, this index

Documents, drafting, **3:27**

Health care proxy, drafting, **3:27, 7:9,  
7:60**

Health care values or desires, **7:60**

Nursing home admission, Patient  
Review Instrument (PRI), **19:5**

Powers of attorney, preparation, **6:55**

Trusts, drafting, **3:27**

Wills, drafting, **3:27, 22:52**

**CHECKS**

Powers of attorney, **6:19**

**CHILDREN**

Conflicts of interest between parents  
and children, **1:18**

Parents and children, conflicts of  
interests, between, **1:18**

Powers of attorney as to personal  
relationships and affairs, **6:24**

Social Security, this index

**CHILDREN—Cont'd**

Special needs children, planning  
approach to provide care for,  
**23:9**

Supplemental security income (SSI),  
eligibility for, **10:53**

Veterans Benefits, this index

**CHIROPRACTORS**

Medicare coverage, **12:74**

**CHOICE IN DYING**

Do Not Resuscitate (DNR) Orders,  
this index

Health Care Proxy, this index

Living Will, this index

**CHRONIC CARE**

Medicaid, renewal, **13:69**

**CITIZENSHIP**

Medicaid eligibility, **13:15**

**CLEAR AND CONVINCING  
EVIDENCE**

Living wills, intent, **7:47**

**CLEARINGHOUSE ON ABUSE  
AND NEGLECT OF THE  
ELDERLY (CANE)**

Generally, **1:6**

**CLERK OF COURTS**

Guardianships

Commission, issuing, **8:46**

Service of process

Designation of clerk to receive  
process, **8:45**

**CLIENT QUESTIONNAIRE**

Attorney-Client Relationship, this  
index

**COINSURANCE**

Medicare part A

Home health care services, **12:32**

Hospital care, **12:32**

Lifetime reserve days, **12:34**

Nursing home care, **12:32**

Medicare part B

Generally, **12:54**

## INDEX

### COMMERCIAL PAPER

Powers of attorney, **6:19**

### COMMISSION OF GUARDIAN

Generally, **8:43, 8:46**

Article 81 guardianship, **8:86**

### COMPASSIONATE ALLOWANCES

Social security, **10:37**

### CONFIDENTIAL OR PRIVILEGED INFORMATION

Ethical obligations of attorney, **5:11**

Guardianship hearings, physician-patient privilege, **8:13**

Medicaid fair hearings, **16:25, 16:26**

### CONFLICTS OF INTEREST

Generally, **1:16, 5:11**

Between parents and children, **1:18**

Between spouses, **1:17**

Joint representation agreement, **1:20, 15:29**

### CONSENT

Do Not Resuscitate (DNR) order, surrogate's consent, **7:41-7:43**

Joint representation agreement, form, **1:20**

Powers of attorney, estate transactions of party under disability, **6:35**

### CONSERVATORSHIPS

Repeal of Articles 81 and 83, mental hygiene law, **8:1**

### CONSTITUTIONAL LAW

Due process

Life support decisions, **7:1**

Fourth Amendment

Life support treatment, **7:1**

### CONSULTATION WITH ATTORNEY

Attorney-Client Relationship, this index

### CONTINUING CARE RETIREMENT COMMUNITIES

Generally, **19:32**

### CONTINUING CARE

#### RETIREMENT

#### COMMUNITIES—Cont'd

See also Assisted Living Facilities, this index

Deficit Reduction Act of 2005, **14:1, 19:33**

Medicaid issues, **14:1**

### CONTROLLED SUBSTANCES

Abuse programs, guardianship of patient, **8:7, 8:10**

### COOPERATIVES

Client questionnaire, **3:7**

### COPIES

Client documents, **3:30, 3:36**

Health care proxies, **7:8**

### COUNTIES

Medicaid, this index

### COURT EVALUATORS

Guardians and Guardianship, this index

### CPR

Withholding, do not resuscitate orders, **7:41**

### CREDIT UNIONS

Powers of attorney, acceptance, **6:4**

### CRIME VICTIMS' ASSISTANCE FUNDS

Medicaid, exempt income, **14:10, 14:23**

### CRIMINAL LIABILITY

Attorney-in-fact liability, **6:43**

Life support decisions, **7:1, 7:18**

Medicaid planning, transfer of assets, **14:33, 17:2**

### CRUZAN v. MISSOURI DEPT. OF HEALTH

Case law analysis, **7:47, 7:52**

### DAMAGES

Nursing homes, negligence or abuse by, **19:25, 19:26**

### DEATH

Incapacitated persons, **8:76**

**DEATH—Cont'd**

Medical aid in dying, **7:46**

**DEBTS**

Client questionnaire, **3:9**

Medicaid, support obligations of legally responsible relatives, Debtor Creditor Law, **13:33**

Powers of attorney, expanded powers, **6:39**

Reverse mortgage payments, **14:10, 14:22**

**DECISION MAKING**

Health Care, this index

**DECOR OF LAW OFFICE**

Generally, **3:11**

**DEEDS**

Recording of, confirmation letter, form, **3:36**

**DEFICIT REDUCTION ACT OF 2005**

Medicaid, **14:1**

**DEFINITIONS**

Activities of daily living, **8:4**

Adult day care, **18:3**

Adult homes, **19:31**

Adult level of care in a hospital, **18:3**

Alien, **13:15**

Assisted living facility, **18:3, 19:30**

Attorney-in-fact, **6:2**

Available resources, **8:4**

Continuing care retirement community, **19:32**

Do Not Resuscitate (DNR) order, **7:41**

Elder law practice, **1:23**

Elderly, **1:3**

Functional level or limitations, **8:4**

Guardianship issues, **8:4**

Health care concepts

Adult homes, **19:31**

Assisted living facility, **19:30**

Bed hold, **19:20**

Continuing care retirement community, **19:32**

Decision on health care, **7:4**

**DEFINITIONS—Cont'd**

Health care concepts—Cont'd

Do Not Resuscitate (DNR) order, **7:41**

Health Care Proxy, **7:2**

Home health care services, part-time or intermittent, **12:31**

Living Will, **7:33**

Managed care program, **13:3**

Managed long term care programs, **13:4**

Medical Orders for Life-Sustaining Treatment (MOLST), **7:44, 7:64**

Restraints, physical and chemical, **19:21**

Resuscitation, **7:41**

Sub-Acute beds or units in nursing home, **19:3**

Health care decision, **7:4**

Health Care Proxy, **7:2**

Home care, **18:3**

Home health care, **18:3**

Homestead, **14:20**

Hospice care, **12:37, 18:3**

Life sustaining treatment, **8:4**

Living Will, **7:33**

Long term care insurance services, **18:2**

“Major medical or dental treatment” defined, **8:4**

Medicaid concepts

Aid continuing, **16:15**

Aliens, **13:15**

Deeming (income), **14:12**

Disability, **13:17**

Earned income, **14:6**

Estate lien, **17:8**

Exempt income, **14:10**

Fair hearing, **16:1**

Homestead, **14:20**

Income, **14:5**

Means tested program, **13:1**

Nazi Persecution Funds, **14:10, 14:22**

Residency, **13:10**

Unearned income, **14:7**

## INDEX

### DEFINITIONS—Cont'd

- Medical Orders for Life-Sustaining Treatment (MOLST), **7:44, 7:64**
- Medicare concepts
  - Custodial care services, **12:22, 12:25**
  - Diagnostic related groups (DRGs), **12:15, 12:16**
  - Home health care services, part-time or intermittent, **12:31**
  - Participating and non-participating providers, **12:78, 12:79**
  - Provider sponsored organization (PSO), **12:85**
  - Qualified Medicare beneficiaries (QMBs), **12:2**
  - Relative value unit system, **12:81**
  - Skilled care services, **12:23-12:26**
  - Skilled nursing facility, **12:20**
  - Spell of illness or benefit period, **12:35**
  - Types or divisions of Medicare, **12:1**
- Mental hygiene facility, **8:4**
- Net worth, **11:13**
- Nursing home care, **18:3**
- Personal needs, **8:4**
- Power of attorney
  - Generally, **6:2**
  - Springing, **6:11**
- Property management, **8:4**
- Qualified Medicare beneficiaries (QMBs), **12:2**
- Residential Health Care Facilities (RHCF), **19:3**
- Respite care, **18:3**
- Resuscitation, **7:41**
- Skilled nursing facility, **12:20**
- Springing power of attorney, **6:11**
- Working capital, managing and developing the successful practice, **4:7**

### DELIVERY OF DOCUMENTS

- Durable power of attorney, delivery of, **6:11**

### DEMENTIA

- Medicare (Part A) eligibility, **12:23**

### DENTISTS

- Medicare coverage, **12:74**

### DEVELOPING THE SUCCESSFUL PRACTICE

- Generally, **5:1 et seq.**
- For detailed treatment see Managing and Developing the Successful Practice

### DEVELOPMENT OF ELDER LAW

- Generally, **1:1**

### DEVELOPMENT OF SPECIAL NEEDS PLANNING

- Generally, **2:1**

### DIAGNOSTIC RELATED GROUPS (DRGS)

- Medicare part A, categorization of hospital admissions, **12:15, 12:16**

### DILLON, EICHNER v.

- Case law analysis, **7:47, 7:48**

### DISABLED PERSONS

- Adult children, social security benefits for, **10:13**
- Disability Determination Request (NYC), form, **13:76**
- Form
  - Disability Determination Request (NYC), **13:76**
- Health care proxy for intellectually disabled, **7:28**
- Home health care, ADA violations, **13:40**
- Income tax credit, **20:10**
- Living trust (disability trust), **20:55, 20:56**
- Medicaid
  - Buy in program, **13:6**
  - Eligibility requirements, **13:17, 13:66, 14:12**
  - Home health care, ADA violations, **13:40**
  - Liens, limitations, **17:7**
  - New York state medical report for determination of disability, form, **13:66**

**DISABLED PERSONS—Cont'd**

- Medicaid—Cont'd
  - Transfer of assets to or for benefit of disabled children, **14:37, 21:14**
- Medicare Part A coverage, **12:5, 12:6, 12:11**
- MOLST legal requirements checklist, **7:65**
- Planning approach to provide care for disabled adult children, **23:9**
- Powers of attorney, estate transactions, **6:35**
- Social Security, this index
- Substituted judgment for intellectually disabled, **7:28**
- Supplemental Security Income (SSI), this index
- Veterans Benefits, this index

**DISCOVERY**

- Guardianship property withheld, discovery of, **8:72**

**DISCRIMINATION**

- Age discrimination, **1:5**

**DIVORCE OR SEPARATION**

- Spouses, this index

**DOCUMENTS**

- Generally, **3:26**
- Acknowledgment of document receipt, **3:39**
- Capacity of client, planning consideration, **3:14**
- Checklists for document assembly, **3:27**
- Client questionnaire
  - Generally, **3:5, 3:10**
  - Acknowledgment of document receipt, form, **3:39**
  - Document confirmation letter, form, **3:36**
  - Forms, **3:37**
  - Memorandum summarizing, **3:37**
- Close-out letter to client
  - Generally, **3:31**
  - Document confirmation letter, form, **3:36**
  - Form, **3:38**

**DOCUMENTS—Cont'd**

- Close-out letter to client—Cont'd
  - Memorandum to file summarizing consultation and post-consultation letters, **3:37**
- Confirmation letter, form, **3:36**
- Copies, **3:30, 3:36, 7:8**
- Delivery of durable power of attorney, **6:11**
- Finalization and execution, **3:29**
- Medicaid application, required documents, **13:47**
- Medicaid application, required documents, list, **13:65**
- Memorandum to file summarizing, **3:37**
- Original Documents, this index
- Powers of attorney, this index
- Receipt acknowledgment, form, **3:39**
- Release acknowledgment receipt, form, **3:39**
- Review of client's documents, request for and, **3:5, 3:10**
- Review of draft documents prior to execution, **3:28**
- Storage and safekeeping, **3:30, 3:36**

**DOMICILE**

- Residence, this index

**DO NOT RESUSCITATE (DNR)**

**ORDERS**

- Generally, **7:1, 7:41**
- CPR, withholding, **7:41**
- Health Care Proxy distinguished, **7:2**
- Institutional orders, **7:42**
- Non-hospital orders, **7:43**
- Patient Self-Determination Act, **7:31**

**DRGS**

- Diagnostic Related Groups (DRGs), this index

**DRUGS AND MEDICINE**

- Controlled substance abuse program's patients, guardianship, **8:7, 8:10**
- Elder abuse, **1:6**
- Hospice, Medicare Part A coverage, **12:39**
- Medicare (Part D), this index

## INDEX

### **DRUGS AND MEDICINE—Cont'd**

- Physician's Desk Reference (PDR), consulting, **13:40**
- Prescription drugs costs in nursing homes, **19:14**
- Veteran's pharmacy benefits, **11:9**

### **DURABLE POWER OF ATTORNEY**

- Powers of Attorney, this index

### **EARLY INTERVENTION PROGRAM**

- Special needs, persons with, **2:5**

### **EDUCATION**

- Special education (IDEA), **2:4**

### **EICHNER v. DILLON**

- Case law analysis, **7:47, 7:48**

### **ELBAUM v. GRACE PLAZA OF GREAT NECK**

- Case law analysis, **7:53**

### **ELECTIVE SHARE**

- Generally, **22:4**
- Right of election, **17:7**
- Waiver, **22:26**

### **EMERGENCY**

- Home care, personal emergency response services system, **13:39**

### **EMPLOYMENT**

- Age discrimination, **1:5**

### **END OF LIFE DECISION-MAKING**

- Health Care Proxy, this index

### **END STAGE RENAL DISEASE IN PEOPLE UNDER AGE 65**

- Medicare (Part A)
  - Coverage, **12:6**
  - Enrollment, **12:11**

### **EPIC PRESCRIPTION DRUG PLAN**

- Overview, **12:73**

### **EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)**

- Age discrimination, **1:5**

### **ESTATE**

- Planning
  - Generally, **1:11**
  - Taxes planning, **1:12**

### **ESTATES**

- Planning
  - Estate Taxes, this index
  - Ill spouse
    - Both spouses requiring care, **23:19**
    - Estate of § 3,000,000, **23:16**
  - Living trusts, **21:1**
  - Married couple with estate of § 3,500,000, **23:8**
  - Questionnaire for married couples, form, **3:37**
- Powers of attorney
  - Enumerated powers, **6:22**
  - Expanded powers, **6:35**
- Taxes. Estate Taxes, this index

### **ESTATE TAXES**

- Generally, **20:29 et seq.**
- Bypass/Marital trusts, **20:60-20:64, 21:29**
- Charitable deduction, **20:31**
- Computation, **20:33**
- Credits, **20:20, 20:32, 20:78**
- Deductions, **20:31**
- Exclusion amount, **20:20**
- Expenses, deduction of, **20:31**
- Filing requirements, **20:36**
- Gift taxes, inter-relationship with, **20:27**
- Grantor retained trusts, **21:30**
- Gross estate
  - Generally, **20:30**
  - Deductions, **20:31**
- Irrevocable living trusts, **20:53**
- Joint revocable living trusts, **20:46**
- Liability, generally, **20:34**
- Marital deduction, **20:31**
- New York state taxation, **20:37**
- Paying taxes, **20:35**
- Planning
  - Generally, **21:28**
  - Ill spouse with estate of § 3,000,000, **23:16**

**ESTATE TAXES—Cont'd**

- Planning—Cont'd
  - Married couple with estate of § 3,500,000, **23:8**
  - Medicaid, planning inter-relationship, **20:5**
  - Primary goals of the senior citizen, **20:3**
  - Techniques for minimizing or eliminating estate taxes, **20:4, 23:16**
  - Tools and resources, **20:6**
  - Wealthy individuals, concerns, **20:65**
  - Wills, **22:3**
- Returns, requirements, **20:36**
- Revocable living trusts, **20:45, 20:46, 21:25**
- Schedules
  - Exclusion amounts, **20:77**
  - Federal estate tax, **20:76**
  - State death taxes credit, **20:78**
- Special needs trusts under OBRA 1993, **20:58**
- State estate tax, **20:37**
- Tax liability, **20:34**
- 2011-2021 federal gift and estate tax laws, **20:2**
- Unified credit, **20:32**
- Unified gift and estate tax system
  - Generally, **20:18**
  - Credits against federal gift and estate tax, **20:20, 20:78**
  - New York system, **20:21**
  - Unified tax rate, **20:19**
- Wills, payment provisions, **22:14**

**ETHICS**

- Generally, **1:16, 5:11**
- Attorney as beneficiary of will, ethical issues, **22:18**
- Beneficiary of will, attorney as, **22:18**
- Conflicts of interest
  - Generally, **1:16, 5:11**
  - Between parents and children, **1:18**
  - Between spouses, **1:17**
  - Joint representation agreement, **1:20, 15:29**
  - Outright gifts, **15:29**

**ETHICS—Cont'd**

- Joint representation agreement, **1:20, 15:29**
- Medicaid planning, **15:29**

**EVIDENCE**

- Guardian, standards for appointing, **8:3, 8:14**
- Medicaid, fair hearings, **16:24**
- Medical treatment, patient's wishes, **7:1**
- Medicare hearing before administrative law judge, **12:51**

**EXECUTORS OF WILLS**

- Powers and duties, **22:15**
- Selecting
  - Generally, **22:16**
  - Attorneys as, **22:17**

**EXEMPT TRANSFERS**

- Medicaid, **14:36, 14:37**

**EXPERIMENTAL OR INVESTIGATIVE TREATMENT**

- Health maintenance organization (HMO), **12:96**

**FACILITY**

- Defined, **8:4**

**FAMILY AGREEMENTS**

- Gifts, **15:25, 15:33**

**FAMILY HEALTH CARE DECISIONS ACT**

- Generally, **7:29**

**FEDERAL INCOME TAXES**

- Deductions, medical expenses
  - Long term care insurance, **18:37**
- Long term care insurance, tax treatment, **18:37**

**FEDERAL INSURANCE CONTRIBUTIONS ACT (FICA)**

- Medicare funding source, **12:2**

**FEES**

- Managing and developing the successful practice, **5:14**

## INDEX

### FINANCIAL INFORMATION

- Client questionnaire
  - Generally, **3:6**
- Inventory of assets, **3:7**
- Liabilities, **3:9**
- Prior transfers, **3:8**

### FINANCIAL INSTITUTIONS

- See also Banks and Banking, this index
- Medical savings account plan, **12:83, 12:87**
- Powers of attorney, acceptance, **6:4**

### FINANCIAL PLANNERS

- Consulting with, **3:32**

### FINANCIAL PRODUCTS

- Sales pitch as elder abuse, **1:6**

### FIVE WISHES

- Health care decision making, **7:1**

### FLORIDA

- Medicaid benefits, New York/Florida connection, **13:14**

### FRAUD

- Medicaid, recovery of benefits paid, **17:2**

### FRIENDS AND RELATIVES

- Children, this index
- Friends and Relatives of Institutionalized Aged (FRIA), generally, **1:19**
- Health care proxy agent, as, **7:11, 7:12**
- Medicaid support actions, pursuing excess resources or income from legally responsible relatives, **13:29-13:34**
- Parents, this index
- Powers of attorney, **6:24, 6:31**
- Spouses, this index
- Wills, disinheriting relatives other than spouse, **22:11**

### FUNCTIONAL LEVEL OR LIMITATIONS

- Defined, **8:4**

### GERIATRIC CARE MANAGERS

- Consulting with, **3:32**
- National Academy of Professional Geriatric Care Managers, generally, **1:19**

### GERMAN REPARATION PAYMENTS

- Generally, **14:10, 14:22**

### GIFTS

- Medicaid eligibility, effect on. See Medicaid, this index
- Power of attorney, statutory gifts rider, form, **6:57**

### GIFT TAXES

- Generally, **20:22 et seq.**
- Applicable credit amount, **20:20**
- Applicable exclusion amount, **20:20**
- Credits, **20:24**
- Deductions, **20:24**
- Disclaimers, **20:24**
- Exclusions, annual, **20:23**
- Filing requirements, **20:26**
- Grandchildren, gifts to, **20:23**
- Income and estate taxes, inter-relationship with, **20:27**
- Interrelationship with income taxation, **20:27**
- Irrevocable living trusts
  - Distributions from trust, **20:52**
  - Funding of trust, **20:51**
- Limited powers of withdrawal, **20:23**
- New York state taxation, **20:28**
- Outright gifts, **15:27, 20:39**
- Planning
  - Ill spouse, requiring home care, **23:12**
  - Ill spouse, requiring home care and possibly nursing home care, **23:11**
  - Single individuals
    - Requiring home care, **23:4**
- QTIP living trusts, **20:25**
- Repeal of state gift tax law, **20:77**
- Returns, requirements, **20:26**
- Revocable living trusts, **20:44, 21:25**
- Schedules
  - Credit for state death taxes, **20:78**

**GIFT TAXES—Cont'd**

- Schedules—Cont'd
  - Exclusion amounts, **20:77**
- Special needs trusts under OBRA 1993, **20:57**
- Split gifts, **20:25**
- Spouses, gifts to, **20:25**
- Unified gift and estate tax system
  - Generally, **20:18**
  - Credits against federal gift and estate tax, **20:20**
  - New York system, **20:21**
  - Schedules, **20:77, 20:78**
  - Unified tax rate, **20:19**
- Valuation of annuity, life estate, remainder, reversion, **20:24**

**GOALS OF SENIOR CLIENT**

- Generally, **20:3**

**GRACE PLAZA OF GREAT NECK v. ELBAUM**

- Case law analysis, **7:53**

**GRANTOR RETAINED ANNUITY TRUSTS (GRATS)**

- Irrevocable living trusts, **20:66, 21:30**
- Suggested language regarding, **20:74**
- Worksheet, form, **20:69**

**GRANTOR RETAINED UNITRUSTS (GRUTS)**

- Irrevocable living trusts, **20:66, 21:30**

**GROUP HOME**

- Medicaid income standards, eligibility, **14:2**

**GUARANTY**

- Nursing home care, private payment, **19:10**
- Nursing home care, private payment guarantees, **19:10**

**GUARDIANS AND GUARDIANSHIPS**

- Generally, **8:1 et seq.**
- Accounts and accounting
  - Annual inventory and account, **8:88**

**GUARDIANS AND**

**GUARDIANSHIPS—Cont'd**

- Accounts and accounting—Cont'd
  - Decree upon approving, form, **8:89**
- Activities of daily living, defined, **8:4**
- Advance planning, **8:73**
- Affirmations
  - Attorney services, **8:93**
  - Nursing home placement, **8:91**
- Alleged incapacitated person, **8:1**
- Alternatives. Dispositional alternatives, below
- Amendments and modifications
  - Article 17A guardianships order, **9:16**
  - Powers of guardian, **8:57**
- Annual report
  - Generally, **8:53**
  - Change in powers, **8:57**
  - Contents, **8:54-8:56**
  - Examination, **8:59**
  - Other activities and information, **8:56**
  - Personal needs, **8:54**
  - Property management, **8:55**
  - Service and filing, **8:58**
- Appointment of attorney, **8:11**
- Appointment of court evaluator, **8:10, 8:11**
- Appointment of guardian
  - Generally, **8:22**
  - Alternate standby guardian, **9:8**
  - Article 81 guardianships
    - Order appointing temporary guardian of person and property, **8:83**
    - Order to show cause, **8:80**
    - Sample form, **8:84**
  - Considerations, **8:25**
  - Court evaluator, **8:10**
  - Education requirements, **8:68**
  - Findings, **8:17**
  - Incapacitated persons, effect on, **8:48**
  - Initiation of proceedings, **8:8**
  - Interim guardian, **8:67**
  - Last resort, as, **8:3**
  - Limitations, **8:4**

## INDEX

### GUARDIANS AND

#### GUARDIANSHIPS—Cont'd

- Appointment of guardian—Cont'd
  - Nomination of guardian, **8:23, 8:85**
  - Order and judgment appointing guardian of person and property, form, **8:84**
  - Order appointing temporary guardian of person and property, form, **8:83**
  - Order to show cause, **8:8-8:10, 8:80**
  - Personal needs purpose, **8:17**
  - Property management purpose, **8:17**
  - Special authority being requested, **8:8, 8:9**
  - Special guardians, **8:21**
  - Special needs guardian, **2:8**
  - Standards for appointing guardian, **8:3, 8:14**
  - Standby guardian, **2:8, 8:67, 9:8**
  - Temporary guardians, below
  - Types, **8:17**
  - Voluntary, **8:17**
- Article 17A guardianships
  - Generally, **2:6, 2:8, 9:1-9:25**
  - Accounting, **9:14**
  - Alternate and standby guardians, **2:8**
  - Alternate standby and standby guardians, **9:8**
  - Application to the court, **9:6-9:14**
  - Bonded guardian, annual account of, **9:24**
  - Contested, **9:11**
  - Duration, **9:12**
  - End of life medical decisions, making, **9:18**
  - Hearing, **9:10**
  - Information guardianship, request for, **9:25**
  - Limited guardian of property, **9:17**
  - Modifications to order, **9:16**
  - Multi-state guardianships, **9:19**
  - Non-bonded guardian, annual account of, **9:23**
  - Non-profit corporations, **9:20**

### GUARDIANS AND

#### GUARDIANSHIPS—Cont'd

- Article 17A guardianships—Cont'd
  - Petition for, **9:6**
  - Petition for appointment, **9:21, 9:22**
  - Petitions for Withdrawals, **9:15**
  - Re-visited & Re-Examined, **9:5**
  - Service of process, **9:7**
  - Special needs trusts, **2:8, 9:9**
  - Standby and alternate guardians, **2:8**
  - Standby and alternate standby guardians, **9:8**
  - Standby guardian, confirmation of, **9:22**
- Article 81 and 83 guardianships
  - Generally, **8:1**
  - Mental hygiene law, **8:1**
- Article 81 guardianships
  - Annual inventory and account, **8:88**
  - Appointment of guardian
    - Order and judgment appointing guardian of person and property, **8:84**
    - Order appointing temporary guardian of person and property, form, **8:83**
    - Order to show cause, **8:80**
  - Attorney services, affirmation, **8:93**
  - Commission of guardian, **8:86**
  - Court evaluator's report, **8:82**
  - Decree upon approving accounts, **8:89**
  - final order confirming transfer and terminating guardianship, **8:95**
  - Forms, below
  - Initial report of guardian, **8:87**
  - Nursing home placement, affirmation, **8:91**
  - Nursing home placement, order authorizing, **8:92**
  - Oath and designation, **8:85**
  - Order to show cause, appointment of guardian, **8:80**
  - Petition, **8:81**

**GUARDIANS AND**

**GUARDIANSHIPS—Cont'd**

Article 81 guardianships—Cont'd  
 provisional order to transfer  
 guardianship, **8:94**  
 Training, informational alert, **8:90**  
 Attorneys  
 Generally, **8:11**  
 Advising client to cooperate with  
 court evaluator, **8:10**  
 Affirmation of attorney services,  
 form, **8:93**  
 Appointment of, **8:11**  
 Consultation, mental capacity of  
 clients, **3:14**  
 Fees, petitioner's attorney, **8:22,**  
**8:75, 8:93**  
 Available resources, defined, **8:4**  
 Best interests requirement, **8:3**  
 Bond, **8:44, 8:61**  
 Certification of filings, **8:7**  
 Commencement of proceeding, gen-  
 erally, **8:7**  
 Commission of guardian, **8:46, 8:86**  
 Commission of the guardian, **8:43**  
 Compensation of guardian, **8:47**  
 Compliance, **8:71**  
 Contested Article 17A guardianships,  
**9:11**  
 Court Appointees, **8:12**  
 Court considerations before approv-  
 ing transfer of property, **8:35**  
 Court evaluators  
 Generally, **8:10**  
 Appointment of legal counsel,  
 effect on evaluator, **8:11**  
 Education requirements, **8:69**  
 Report  
 Admissibility of, **8:14**  
 Sample form, Article 81  
 guardianship, **8:82**  
 Court examiner, education require-  
 ments, **8:70**  
 Decree of discharge, final report,  
**8:61**  
 Definitions, **8:4**  
 Demand for jury trial, **8:13**  
 Discharge of guardian, **8:61, 8:63**  
 Discovery of withheld property, **8:72**

**GUARDIANS AND**

**GUARDIANSHIPS—Cont'd**

Dismissal, **8:19, 8:71**  
 Dispositional alternatives  
 Generally, **8:18, 8:38**  
 Appointment of guardian, **8:22**  
 Dismissal, **8:19, 8:71**  
 Injunction, **8:40**  
 Protective arrangements, **8:20**  
 Single transactions, **8:20**  
 Special guardians, appointment,  
**8:21**  
 Temporary guardian, **8:39**  
 Temporary restraining order, **8:41**  
 Duties of court evaluator, **8:10**  
 Duties of guardian  
 Generally, **8:26, 8:27**  
 Personal needs, **8:29**  
 Property management, **8:28**  
 Education requirements  
 Generally, **8:68**  
 Court evaluator, **8:69**  
 Court examiner, **8:70**  
 Guardian, **8:68**  
 Informational alert to guardians  
 regarding training, form, **8:90**  
 End of life medical decisions, **9:18**  
 Facility, defined, **8:4**  
 Final report of guardian, **8:60, 8:61**  
 Findings, **8:17**  
 Foreign guardian, out-of-state inca-  
 pacitated person, **8:24**  
 Forms, Article 81 guardianships  
 Generally, **8:79**  
 Affirmation as to nursing home  
 placement, **8:91**  
 Affirmation of attorney services,  
**8:93**  
 Annual inventory and account,  
**8:88**  
 Commission of guardian, **8:86**  
 Court evaluator's report, **8:82**  
 Decree upon approving accounts,  
**8:89**  
 Informational alert to guardian  
 regarding training, **8:90**  
 Initial report of guardian, **8:87**

## INDEX

### GUARDIANS AND

#### GUARDIANSHIPS—Cont'd

- Forms, Article 81 guardianships
  - Cont'd
  - Oath and designation of guardian, **8:85**
  - Order and judgment appointing guardian, **8:83, 8:84**
  - Order authorizing nursing home placement, **8:92**
  - Order to show cause to appoint guardian, **8:80**
  - Petition, **8:81**
- Functional level or limitations, defined, **8:4**
- Health care decision making, **7:1**
- Hearings
  - Generally, **8:13**
  - Article 17A guardianships, **9:10**
  - Burden of proof, **8:14**
  - Preference for hearing, **8:15**
  - Time for decision, **8:15**
- Incapacitated person and criminal action, **8:78**
- Informational alert to guardians regarding training, form, **8:90**
- Initial report of guardian
  - Generally, **8:50**
  - Article 81 guardianship, form, **8:87**
  - Contents
    - Personal needs, **8:52**
    - Property management, **8:51**
    - Examination, **8:59**
    - Service, **8:58**
- Injunctive relief, **8:40, 8:41**
- Interim guardian, **8:67**
- Intermediate report of guardian, **8:60**
- Inventory, form, **8:88**
- Judgment of appointment of Article 81 guardian
  - Generally, **8:22**
  - Form, **8:84**
- Judiciary/Fiduciary appointments, **8:12**
- Jurisdiction, **8:5**
- Jury trial demand, **8:13**
- Least restrictive form of intervention, defined, **8:4**

### GUARDIANS AND

#### GUARDIANSHIPS—Cont'd

- Legislative intent, **8:2, 8:17**
- Life sustaining medical treatment, withholding or withdrawing, **8:49, 9:18**
- Life sustaining treatment, defined, **8:4**
- Lis pendens, **8:42**
- Medicaid planning method, **8:74**
- Mental hygiene law Article 81, **8:1**
- Multi-state guardianship, **8:76**
- Nomination of Article 81 guardian, **8:85**
- Nomination of guardian, **8:23**
- Notice of order to show cause, **8:8**
- Notice of pendency, real property, **8:42**
- Nursing home placement
  - Affirmation, form, **8:91**
  - Order authorizing, form, **8:92**
- Oath and designation of Article 81 guardian, form, **8:85**
- Order, Article 17A guardianships, modifications to, **9:16**
- Order and judgment appointing guardian of person and property, form, **8:84**
- Order appointing temporary guardian of person and property, form, **8:83**
- Order authorizing nursing home placement, **8:92**
- Order to show cause, appointment of guardian
  - Generally, **8:8**
  - Article 81 guardianships, **8:80**
  - Court evaluator appointment resulting, **8:10**
  - Special authority requests in order, **8:8, 8:9**
- Personal needs
  - Defined, **8:4**
  - Duty of guardian, **8:29**
  - Initial report of guardian, **8:52**
  - Powers of guardian, **8:36, 8:37**
  - Special needs trusts, **9:9**

**GUARDIANS AND  
GUARDIANSHIPS—Cont'd**

Petitions  
     Appointment of guardian  
         Article 17A guardian, **9:6**  
         Article 81 guardianships, **8:81**  
     Attorney fees for petitioner, **8:75**  
     Contents, **8:9**  
     Dismissal, **8:19**  
     Dispositional alternatives, above  
     Filing, generally, **8:7-8:9**  
     Powers of attorney, designating  
         guardian, **6:46**  
     Powers of guardian  
         Modification of powers  
             Annual report of guardian, **8:57**  
             Discharge of guardian, **8:63**  
         Personal needs  
             Generally, **8:36**  
             Enumerated powers, **8:37**  
         Property management  
             Generally, **8:30**  
                 Court considerations before  
                     approving transfers, **8:34**  
                 Enumerated powers, **8:31**  
                 Findings required for granting  
                     property transfer, **8:35**  
                 Information required for transfer  
                     of property, **8:32**  
                 Notice requirements, **8:33**  
                 Special authority being requested,  
                     **8:8, 8:9**  
                 Standby guardian, **8:67**  
                 Suspension of, **8:66**  
         Proceedings  
             Confidential records, **8:16**  
             Discovery of withheld property,  
                 **8:72**  
             Lis pendens, **8:42**  
             Priority, **8:15**  
             Record, **8:16**  
             Right to jury trial, **8:13**  
             Who may commence, **8:7**  
         Property management  
             Generally, **8:4**  
             Annual report of guardian, **8:55**  
             Appointment of guardian purpose,  
                 **8:17**

**GUARDIANS AND  
GUARDIANSHIPS—Cont'd**

Property management—Cont'd  
     Discover withheld property,  
         proceedings to, **8:72**  
     Duty of guardian, **8:28**  
     Initial report of guardian, **8:51**  
     Notice of pendency, **8:42**  
     Powers of guardian, above  
     Reports, **8:51, 8:55**  
     Provisional remedies  
         Generally, **8:38**  
         Injunctions, **8:40**  
         Temporary guardians, **8:39**  
         Temporary restraining orders, **8:41**  
     Purpose, **8:2**  
     Qualifications of guardian  
         Education requirements, **8:68**  
         Nomination of guardian, **8:23**  
         Oath and designation, form, **8:85**  
         Who may be guardian, **8:25**  
     Real property  
         Discovery of withheld property,  
             **8:72**  
         Notice of pendency, **8:42**  
     Record of proceedings, **8:16**  
     Removal of guardian, **8:62**  
     Reports of court evaluators  
         Admissibility of, **8:14**  
         Article 81 guardianship, sample  
             form, **8:82**  
     Reports of guardian  
         Activities and information, **8:57**  
         Annual report, **8:53-8:59**  
         Filing, **8:8, 8:58**  
         Final report, **8:60, 8:61**  
         Initial report, **8:50-8:52**  
         Intermediate report, **8:60**  
         Property management, **8:51, 8:55**  
         Service, **8:58**  
     Residence of institutionalized person,  
         **13:10**  
     Resignation of guardian, **8:66**  
     Scope of guardianship, generally, **8:4**  
     Sealing of records, **8:16**  
     Service of process  
         Generally, **8:7**  
         Annual report, **8:58**

## INDEX

### GUARDIANS AND

#### GUARDIANSHIPS—Cont'd

##### Service of process—Cont'd

Article 17A guardianship, **9:7**

Designation of clerk to receive process, **8:45**

Judgment, **8:22**

Petition and order to show cause, **8:8**

Special authority requests in order to show cause, **8:8, 8:9**

Special guardians, appointment, **8:21**

Special needs. Article 17A guardianships, above

##### Special Needs Trust

Article 17A guardianships, **9:15**

Special needs trusts, **2:8, 9:9**

##### Standby guardian

Generally, **8:67**

Article 17A guardianship, **2:8, 9:8**

Statutory legend, order to show cause, **8:8**

Suspension of guardian's powers, **8:66**

##### Temporary guardians

Generally, **8:39**

Bonds, **8:44**

Temporary restraining order, **8:41**

Training of guardian, informational alert, **8:90**

##### Vacancy in guardian's office

Generally, **8:67**

Discharge of guardian, **8:61, 8:63**

Interim guardian, **8:67**

Removal of guardian, **8:62**

Resignation of guardian, **8:66**

Standby guardian, **8:67**

Venue, **8:6**

Who may be guardian, **8:25**

Who may commence proceeding, generally, **8:7**

Withdrawal of guardianship, **8:64**

### HARASSMENT

Age discrimination, **1:5**

### HEALTH CARE

Artificial Nutrition or Hydration, this index

### HEALTH CARE—Cont'd

Billing and payment matters, **6:26**

Caregiver Advise, Record, and Enable Act, **7:30**

##### Decision making

Generally, **7:1**

Caregiver Advise, Record, and Enable Act, **7:30**

##### Case law analysis

Cruzan v. Missouri Dept. of Health, **7:52**

Eichner v. Dillon, **7:48**

Elbaum v. Grace Plaza of Great Neck, **7:53**

Grace Plaza of Great Neck v. Elbaum, **7:53**

Matter of Quinlan, **7:51**

Matter of Storar, **7:49**

Westchester County Medical Center (O'Connor), **7:50**

Criminal liability, **7:1, 7:18**

Cruzan v. Missouri Dept. of Health, **7:52**

Do not resuscitate (DNR) orders, **7:41-7:43**

Eichner v. Dillon, **7:48**

Elbaum v. Grace Plaza of Great Neck, **7:53**

Family Health Care Decisions Act, **7:29**

Grace Plaza of Great Neck v. Elbaum, **7:53**

Guardian withholding or withdrawing life support, **8:49, 9:18**

##### Health care proxy

Generally, **7:2-7:23**

For detailed treatment see Health Care Proxies, this index

##### Historical perspective

Generally, **7:47**

Case law, above

prior to 1991 legislation, **7:47**

Values history form, **7:62**

Life sustaining treatment, defined, **8:4**

##### Living wills

Generally, **7:32-7:38**

**HEALTH CARE—Cont'd**

- Decision making—Cont'd
  - Living wills—Cont'd
    - For detailed treatment see Living Wills, this index
  - “Major medical or dental treatment” defined, **8:4**
  - Matter of Quinlan, **7:51**
  - Matter of Storar, **7:49**
  - Medical Aid in Dying Act, **7:40**
  - Medical Orders for Life-Sustaining Treatment (MOLST), **7:44, 7:64**
  - Palliative Care Information Act, **7:39**
  - Patient Self-Determination Act, **7:31**
  - Values history form, **7:62**
  - Westchester County Medical Center (O'Connor), **7:50**
- Family Health Care Decisions Act, **7:29**
- Goal of decision, **7:3**
- Home health care, this index
- Insurance. Health Insurance, this index
- Medical authorization, **7:45**
- Medical Orders for Life-Sustaining Treatment (MOLST), **7:44**
  - generally, **7:64**
  - legal requirements checklist for individuals with developmental disabilities, **7:65**
- Planning, **1:12**
- Powers of attorney
  - Billing and payment matters, **6:26**
  - Expanded powers, **6:41**
- Provider
  - Freedom to choose, **13:3**
  - Immunity, **7:18**
  - Licensing Provider Sponsored Organization (PSO), Medicare Part C, **12:85**
  - Obligations owed health care agent, **7:16-7:18**
  - Patient Self Determination Act, requirements, **7:31**
  - Proxy. Health Care Proxy, this index

**HEALTH CARE—Cont'd**

- Required handouts to patient, **7:31**
  - Wills, special needs provisions, **22:8**
- HEALTH CARE PROXY**
- See also Living Will, Medical Treatment Acceptance or Refusal, this index
  - Generally, **7:1, 7:2**
  - Alternate agent, designating, **7:9, 7:12**
  - Ambiguity, **7:14**
  - Attorney's obligations, **7:22**
  - Best interests rule, **7:14**
  - Capacity to appoint proxy, **7:6**
  - Catholic Health Care Proxy, **7:27**
  - Checklist. Drafting checklist, below
  - Client consultation, **3:21**
  - Commencement of agent's authority, **7:13**
  - Confirmation letter, **3:36**
  - Contents, **7:9**
  - Copies of proxy, distribution and use of, **7:8**
  - Decision making by agent, **7:14**
  - Definition, **7:2, 7:4**
  - Distinguished from DNR orders, **7:24**
  - Divorce or separation, effect of, **7:7**
  - Drafting checklist
    - Generally, **3:27, 7:9**
    - Form, **7:60**
  - Duties and powers of agent, **7:13-7:15**
  - Duties of attorney, **7:22**
  - Duties of health care provider, **7:16, 7:17**
  - End of life decision-making
    - Cases, **7:51, 7:52, 7:56**
    - Guardian decision, **9:18**
  - Execution of proxy, **7:8, 7:9**
  - Expiration of proxy, **7:7, 7:9, 7:13**
  - Form
    - HIPAA compliant authorization for release of medical information and confidential HIV related information, **7:66**
    - New York health care proxy, **7:59**
    - Orthodox Jews, health care proxy, **7:63**

## INDEX

### HEALTH CARE PROXY—Cont'd

- Goal of health care decision, **7:3**
- Goal of health care proxy, **7:5**
- HIPAA compliant authorization for release of medical information and confidential HIV related information, **7:66**
- Historical cases
  - Generally, **7:47**
  - Cruzan v. Missouri Department of Health, **7:52**
  - Eichner v. Dillon, **7:48**
  - Elbaum v. Grace Plaza of Great Neck, **7:53**
  - Grace Plaza of Great Neck v. Elbaum, **7:53**
  - Matter of Quinlan, **7:51**
  - Matter of Storar, **7:49**
  - May v. Wartburg Health Care Center, Matter of, **7:55**
  - McMath, Jahi, **7:57, 7:58**
  - Munoz, Marlise, **7:58**
  - prior to 1991 legislation, **7:47**
  - Schiavo, Terri, **7:56**
  - Westchester Medical Center v. Helen A. Hall, **7:50**
- HIV related information, HIPAA compliant authorization for release of medical information and confidential, **7:66**
- Immunity of health care agent or provider, **7:18**
- Information, right to receive, **7:15**
- Intellectually disabled, **7:28**
- Living will
  - Distinguished, **7:36**
  - Limiting health care agent's authority, **7:14**
  - Revocation of proxy, consequences, **7:10**
- Multiple agents, **7:11**
- Multiple originals or copies, **7:8**
- Notice of incompetency of principal, **7:13**
- Objective of Proxy, **7:3**
- Obligations of health care provider, **7:16, 7:17**
- Organ donation, **7:23**
- Orthodox Jews, **7:26, 7:63**

### HEALTH CARE PROXY—Cont'd

- Other states, **7:21**
- Out of state, **7:25**
- Patient Self Determination Act, **7:31**
- Planning considerations, **7:22**
- Power of attorney, compared, **7:5**
- Powers and duties of agent, **6:42, 7:13-7:15**
- Provider of health care, **7:16-7:18**
- Purpose, **7:5**
- Release of medical information, HIPAA compliant authorization for, **7:66**
- Requirements, **7:8, 7:9, 7:11**
- Residential health care facilities (RHCfs), **7:19**
- Revocation of proxy, **7:10**
- Right of agent to receive information and records, **7:15**
- Sample form, **7:59, 7:63**
- Selection of agent, **7:5, 7:11, 7:12**
- Settling disputes about creation or implementation of proxy, **7:20**
- Signatures required, **7:8, 7:9**
- Storage and safekeeping, **3:30**
- Substituted judgment for intellectually disabled, **7:28**
- Successor agents, **7:12**
- Term, **7:7, 7:9, 7:13**
- Tissue donation, **7:23**
- Validity
  - Generally, **7:7**
  - Challenging, **7:20**
- Values history, form, **7:62**
- Witnesses, **7:6, 7:8, 7:9**

### HEALTH INSURANCE

- Client questionnaire, **3:4**
- Medicaid income standards, **14:8**
- Medicare, this index
- Medigap, **12:89, 12:90**
- Premiums, income tax deductions, **14:8, 20:9**
- Sales pitch as elder abuse, **1:6**

### HEALTH MAINTENANCE ORGANIZATION (HMO)

- See also Medicare, this index
- General overview, **12:91**

**HEALTH MAINTENANCE ORGANIZATION (HMO)**

**—Cont'd**

- Advantages, **12:92**
- Appeal and review, **12:95, 12:96**
- Definition of managed care program, **13:3**
- Disadvantages, **12:93**
- Expedited appeals, **12:96**
- Experimental or investigative treatment, **12:96**
- Fees, external review of adverse decision by HMO, **12:96**
- Funding Medicare Part C, **12:2**
- Part C, Medicare, **12:84**
- Risk HMOs and cost basis HMOs, compared, **12:94**
- Sales pitch as elder abuse, **1:6**
- Suit against HMO, **12:97**

**HEARINGS**

- See specific index headings

**HIPAA**

- Authorization for release of medical information and confidential HIV related information, HIPAA compliant, form, **7:66**

**HISTORICAL PERSPECTIVE**

- Practice of elder law, **1:1**
- Practice of special needs planning, **2:1**

**HIV INFORMATION**

- HIPAA compliant authorization for release of medical information and confidential HIV related information, **7:66**

**HMO**

- Health Maintenance Organization (HMO), this index

**HOME HEALTH CARE**

- ADA violations, **13:40**
- Benefit period, **12:33-12:36**
- Chart of Medicare appeals, **12:102**
- Coinsurance and deductibles, **12:32**
- Concepts Program, **13:36**
- Consumer directed home care program, **13:36**

**HOME HEALTH CARE—Cont'd**

- Defined, **18:3**
- Excluded services, **12:30**
- Expedited home care Medicaid application, **13:62**
- Financial look back for Medicaid, **13:41, 14:28**
- Homemaker services, **12:30, 12:39**
- Immediate need, personal care services under Medicaid, **13:51**
- Included services, **12:29**
- Intermittent services, **12:29, 12:31**
- Limitations on Medicaid authorizations, **13:40**
- Location where services provided, **12:28**
- Lombardi program, **13:43, 14:44**
- Long term home health care
  - Defined, **18:3**
  - Insurance, **18:1, 18:4**
  - Lombardi program, **13:43, 14:44**
- Medicaid
  - Generally, **13:35 et seq.**
  - ADA violations, **13:40**
  - Concepts Program, **13:36**
  - Consumer Directed Home Care Program, **13:36**
  - Electronic monitoring device systems, **13:39**
  - Expedited home care application, **13:62**
  - Financial look back for Medicaid, **13:41**
  - Income limitations for patient eligibility, **14:2**
  - Limitations, **13:40**
  - Lombardi program, **13:43, 14:2, 14:44**
  - Long term home health care, **13:43, 14:2, 14:44**
  - Olmstead case, **13:40**
  - Personal care aide, **13:35 et seq.**
  - Personal emergency response services, **13:39**
  - Physician's request for home health aide or personal care aide and orders to service agency, **13:40, 13:50**
  - Rodriguez case, **13:40**

## INDEX

### HOME HEALTH CARE—Cont'd

- Medicaid—Cont'd
  - Shared aides, **13:38**
  - Supplementation of home care, **13:37**
- Medicare Part A services
  - General overview, **12:12, 12:27**
  - Benefit period, **12:33**
  - Coinsurance and deductibles, **12:32**
  - Duration, **12:31**
  - Excluded services, **12:30**
  - Included services, **12:29**
  - Location, **12:28**
  - Part-time and intermittent services, **12:29, 12:31**
  - Personal care aid and homemaker services, **12:30, 12:39**
  - Prerequisites for coverage, **12:27**
- Notice as to reduction or termination of services, **12:31**
- Olmstead case, **13:40**
- Part-time services, **12:29, 12:31**
- Personal care services under Medicaid
  - Generally, **13:35, 13:50**
  - Concepts Program, **13:36**
  - Consumer Directed Home Care Program, **13:36**
  - Electronic monitoring device systems, **13:39**
  - Emergency response services systems, **13:39**
  - Immediate need, **13:51**
  - Physician's request, form, **13:40, 13:50**
  - Shared aides, **13:38**
  - Supplementation, **13:37**
- Personal care services under Medicare, **12:22, 12:30, 12:39**
- Personal emergency response services, **13:39**
- Physician's Desk Reference (PDR), consulting, **13:40**
- Planning for single individual, **23:4**
- Reduction or termination of services, notice, **12:31**
- Request for home care, **13:40, 13:67**
- Rodriguez case, **13:40**

### HOMEMAKER SERVICES

- Hospice care, **12:39**
- Medicare coverage issues, **12:30, 12:39**

### HOMESTEADS

- Medicaid
  - Exempt resource, **14:20, 14:21**
  - Home equity value, **14:1**
  - Intent to return home, power of attorney provision, **6:45**
  - Memorandum regarding transfer of residence with retained life estate or to a trust, form, **15:31**
  - Transfer of homestead, **14:31**
- Mobile homes, **3:7**
- Permanent absent status, **14:21**
- Residence, this index
- Supplemental security income (SSI) exemption, **10:41**
- Veteran's pension eligibility, **11:14**

### HOSPICE CARE

- General overview, **12:12, 12:37**
- Coinsurance and deductibles, **12:41**
- Conditions for coverage, **12:38**
- Defined, **12:37, 18:3**
- National Hospice and Palliative Care Organization (NHPCO), generally, **1:19**
- Periods of coverage, **12:40**
- Services covered, **12:39**

### HOSPITALS

- Health care proxy, refusing to honor, **7:16**
- Medicare part A coverage. Medicare (Part A), this index
- Nursing homes
  - Bed holds, hospitalization of resident, **19:20**
  - Coinsurance, deductibles, **12:32**
  - Entering from hospital, **19:6**
  - Medicaid eligibility for transfers to, **8:7**
- Patient Self Determination Act, **7:31**

### HOSTILE WORK ENVIRONMENT

- Age discrimination, **1:5**

**HOUSEBOUND ALLOWANCE**

- Veteran's pension benefits, **11:18**
- Veteran's survivor's benefits, **11:26**

**HOUSEHOLD GOODS**

- Supplemental security income (SSI) exemption, **10:41**

**HOUSING**

- Age discrimination, **1:5**

**HYDRATION**

- Artificial Nutrition or Hydration, this index

**IMMUNITY**

- Health care agent or provider, **7:18**

**INCAPACITATED PERSONS**

- See Capacity, this index

**INCOME COVERAGE**

- Applicant/recipient declaration
  - Legally responsible relative's income/resources (NYC), **13:77**
- Asking client for financial information, **3:6**
- Form
  - Applicant/recipient declaration concerning legally responsible relative's income/resources (NYC), **13:77**
- Medicaid, **13:53**

**INCOME TAXES**

- Generally, **20:7 et seq.**
- Accident and health plan benefits, **20:13**
- Credit
  - Dependent care expense, **20:11**
  - Elderly and disabled, **20:10**
- Deductions, medical expenses
  - Generally, **20:9**
  - Health insurance premiums, **14:8**
- Deductions, standard and elderly, **20:8**
- Filing, requirements, **20:8**
- Gift taxes, inter-relationship with, **20:27**
- Interrelationship with gift taxation, **20:27**

**INCOME TAXES—Cont'd**

- Irrevocable living trusts, **20:49**
- Joint revocable living trusts, **20:46**
- Medical expenses
  - Deductions, above
- Planning considerations for person requiring
  - Nursing home care, **23:5**
- Refunds, **14:23**
- Report (1099), **13:49**
- Residence, sale, **20:15**
- Retirement plans, benefits from, **20:12**
- Returns, requirements, **20:8**
- Revocable living trusts, **20:43, 20:46, 21:25**
- Settlement payments, **20:56**
- Special needs trusts under OBRA 1993, **20:56**
- Step up in basis, **20:14**

**INDEMNITY AND INDEMNIFICATION**

- Long term care insurance, **18:10**
- Power of attorney provision, **6:4, 6:51**

**INDIGENT PERSONS**

- Guardians, compensation, **8:47**

**INDIVIDUAL EDUCATION PROGRAM**

- Special needs, **2:4**

**INDIVIDUAL RETIREMENT ACCOUNTS (IRAS)**

- Early withdrawal, 10 percent excise tax, **20:12**
- Medicaid resource, **14:14**
- Planning approach to protect ill spouse requiring nursing home care, **23:15-23:21**
- Required Minimum Distribution Table, **20:79**
- Roth IRA, transfers, **15:5**
- Transfers, **15:5**

**INDIVIDUALS WITH DISABILITIES EDUCATION IMPROVEMENT ACT**

- Special needs, **2:4**

## INDEX

### INDIVIDUAL TRUST

Living trusts  
Form, **21:33**

### INJUNCTIVE RELIEF

Guardianships, provisional remedies,  
**8:40, 8:41**

### INSURANCE

Coinsurance, this index  
Health Insurance, this index  
Life Insurance, this index  
Long Term Care Insurance, this index  
Medicare, this index  
Medigap insurance, **12:89, 12:90**  
Powers of attorney, **6:21, 6:34**  
Premiums, income tax deductions,  
**20:9**  
Proceeds from loss, damage, or theft,  
**14:23**  
Social security disability benefits and  
insured status, **10:30, 10:31,**  
**10:34**

### INTENT

Residency, determining, **13:10**

### INTERNET

Websites, marketing to general public,  
**5:4, 5:8**

### INVENTORY

Article 81 guardianships, form, **8:88**  
Client questionnaire, inventory of  
assets, **3:7**

### INVESTIGATIVE TREATMENT

Medicaid application, collateral  
investigation, **13:48**

### INVESTMENTS

Advisors to attorney, **3:32**  
Elder abuse, **1:6**  
Powers of attorney, **6:18**

### IRA

Individual Retirement Accounts  
(IRAS), this index

### IRREVOCABLE LIFE INSURANCE TRUSTS

Generally, **20:67**  
Estate tax planning, **20:72, 21:31**

### IRREVOCABLE LIFE INSURANCE TRUSTS—Cont'd

Suggested language regarding, **20:73**

### IRREVOCABLE LIVING TRUSTS

Living Trusts, this index

### JAPANESE AMERICANS

#### RELOCATION RESTITUTION

Medicaid, exempt resource, **14:22,**  
**14:23**

### JEWISH RELIGION

Orthodox Jews, health care proxies  
for, **7:26, 7:63**

### JOINT REPRESENTATION AGREEMENT

Form, **1:20**  
Medicaid planning, ethical issues,  
**1:16, 15:29**

### JUDGMENTS

Article 81 guardian of person and  
property, appointment, form,  
**8:83, 8:84**  
Health care proxy, substituted judgment  
for intellectually disabled,  
**7:28**  
Medicaid, judgment against excess  
resources of legally responsible  
relative, **13:31**  
Substituted judgment for intellectually  
disabled, health care proxy,  
**7:28**

### JURISDICTION

Guardianship proceedings, **8:5**

### LAW OFFICE

Access and decor, **3:11**  
Budget or marketing plans. Managing  
and Developing the Successful  
Practice, this index  
Meetings, **4:12**  
Overhead, **4:4**  
Referral sources, marketing to, **5:10**  
Scheduling appointments, **5:9**  
Websites, **5:8**

### LEGAL FEES

Managing and developing the successful  
practice, **5:14**

**LIABILITIES**

Client questionnaire, **3:9**

**LICENSES AND PERMITS**

Provider Sponsored Organization (PSO), Medicare Part C, **12:85**

**LIENS**

Accident liens  
 Generally, **17:16**  
 Persons under age 21, **17:19**  
 Priority, **17:17**  
 Waivers and reductions, **17:18**  
 Attorneys' fees lien, **17:20**  
 Medicaid, this index

**LIFE ESTATES**

Medicaid  
 Life estate and remainder interest table, **14:45**  
 Transfer of assets, **14:35, 15:31**  
 Memorandum on transfer of residence with retained life estate or to a trust, **15:31**

**LIFE INSURANCE**

Client questionnaire, **3:7**  
 Irrevocable life insurance trusts  
 Generally, **20:67**  
 Estate tax planning, **21:31**  
 Suggested language regarding, **20:73**  
 Long term care insurance, **18:36**  
 Outright gift, **15:6**  
 Planning approach to protect ill spouse  
 Requiring nursing home care, **23:15, 23:16**  
 Supplemental security income (SSI) exemption, **10:41**  
 Veterans policies, **3:7**

**LIFE SUPPORT**

Do Not Resuscitate (DNR) orders, this index  
 Health Care Proxy, this index  
 Living Wills, this index

**LIFE SUSTAINING TREATMENT**

CPR, withholding under do not resuscitate orders, **7:41**

**LIFE SUSTAINING TREATMENT**

—Cont'd

Defined, **8:4**  
 Guardian withholding or withdrawing, **8:49, 9:18**

**LIFETIME TRUSTS**

Living Trusts, this index

**LIMITATION OF ACTIONS**

Medicaid recoveries, estate liens, **17:11**

**LIMITED POWERS OF ATTORNEY**

Generally, **6:6**

**LITIGATION**

Actions and proceedings, this index

**LIVING TRUSTS**

Generally, **21:1 et seq.**  
 Assets, **21:1**  
 By pass trusts  
 Generally, **20:61**  
 Use, **20:60, 21:29**  
 Convertible trusts, **20:47**  
 Disability trust  
 Generally, **20:55**  
 Settlement payments to, income taxation, **20:56**  
 Estate tax planning, generally, **21:28**  
 Form  
 Medicaid asset protection trust  
 Joint trust, **21:34**  
 Gift taxes, QTIP living trusts, **20:25**  
 Grantor trusts, **20:56**  
 GRAT, Medicaid GRAT, **21:13**  
 Individual Trust  
 Form, **21:33**  
 Irrevocable life insurance trusts  
 Generally, **20:67, 21:31**  
 Suggested language regarding, **20:73**  
 Irrevocable living trusts  
 Generally, **20:48, 21:7, 21:27**  
 Charitable remainder trusts, **20:66, 21:30**  
 Estate taxation, **20:53**  
 Gift taxation  
 Distributions from trust, **20:52**

## INDEX

### LIVING TRUSTS—Cont'd

#### Irrevocable living trusts—Cont'd

##### Gift taxation—Cont'd

Funding of trust, **20:51**

##### Grantor retained trusts

Generally, **21:30**

Use, **20:66**

##### Grantor trusts, income taxation, **20:50**

GRATs, **20:66, 20:70, 21:30**

GRUTs, **20:66, 21:30**

##### Income only trusts

Asset Protection Trusts, **21:8**

Income taxation, **20:49**

##### Medicaid asset protection trust

Tax consequences, **20:54**

##### Medicaid asset protection trust, below

Medicaid asset protection trust, tax consequences, **20:54**

Medicaid planning, **21:9**

Qualified personal residence trust (QPRTs), **20:66, 20:71, 21:30**

Revoking irrevocable living trust, **21:10**

Tax treatment, **20:48-20:53**

#### Marital trusts

Generally, **20:62**

Use, **20:60, 21:29**

#### Medicaid

Generally, **21:2**

Asset protection trusts, **21:8**

GRAT, **21:13**

Irrevocable living trusts, **21:9**

Medicaid qualifying trusts, **21:3**

Omnibus Budget Reconciliation Act of 1993

Generally, **21:5**

Exempt trusts, **21:14**

Look-back period, Trusts, **21:6**

Penalty period, **21:6**

Special needs trust, **21:14**

Planning, **21:1**

Revocable living trusts, **21:24**

Trigger trusts, **21:4**

#### Medicaid asset protection trust

Form, **21:33**

Funding with residence, **21:12**

### LIVING TRUSTS—Cont'd

#### Medicaid asset protection trust—Cont'd

Joint trust, **21:34**

Planning overview, **21:11**

#### Pooled trusts

Generally, **20:55, 21:19**

OBRA 1993 exempt trusts, **21:14**

Pooled income trusts, **21:20**

QTIP living trusts, gift taxes, **20:25**

Qualified income trusts, **21:18**

Generally, **20:55**

OBRA 1993 exempt trusts, **21:14**

#### Revocable living trusts

Generally, **20:42, 21:23**

Convertible trusts, **20:47**

Estate taxation, **20:45**

Form, **21:38**

Gift taxation, **20:44**

Income taxation, **20:43**

Joint trusts, **20:46**

Medicaid planning, **21:24**

Merger doctrine, elimination, **21:23**

Tax consequences, **20:42-20:47, 21:25**

Wills, **21:26**

#### Sole benefit trusts

Generally, **14:37, 21:21**

Form, **21:39**

#### Special needs trusts

Generally, **21:15-21:17**

Administration, **21:16**

Forms, **21:35**

Funding and Medicaid liens, **21:17**

#### Supplemental needs trusts

Generally, **2:8, 21:22**

Third party trust, form, **21:37**

#### Third-party trusts

Generally, **20:59**

supplemental needs trusts, above

Well spouse for dying spouse trust, **20:64**

Wills, **20:63**

Wills, Revocable Trusts, **21:26**

**LIVING WILL**

- See also Health Care Proxies, Medical Treatment Acceptance or Refusal, this index
- Generally, **7:1, 7:32**
- Catholic Medical Directive, **7:35**
- Client consultation, **3:21, 7:22**
- Definition, **7:33**
- Evidence of maker's desires, clear and convincing, **7:1, 7:47**
- Execution, **7:37**
- Forms
  - Generally, **7:61**
  - Values history form, **7:62**
- Health care proxy distinguished, **7:36**
- Historical cases
  - Generally, **7:47**
  - Cruzan v. Missouri Department of Health, **7:52**
  - Eichner v. Dillon, **7:48**
  - Elbaum v. Grace Plaza of Great Neck, **7:53**
  - Grace Plaza of Great Neck v. Elbaum, **7:53**
  - Matter of Quinlan, **7:51**
  - Matter of Storar, **7:49**
  - May v. Wartburg Health Care Center, Matter of, **7:55**
  - prior to 1991 legislation, **7:47**
  - Westchester Medical Center v. Helen A. Hall, **7:50**
- Periodic review of, **7:38**
- Purposes, **7:34**
- Revocation, **7:38**
- Sample form, **7:61**
- Values history, form, **7:62**

**LOANS**

- Client questionnaire, **3:9**
- Medicaid, transfer of assets, **14:1**
- Medicaid planning, promissory note, **15:34**
- Powers of attorney, expanded powers, **6:39**
- Reverse mortgage payments, **14:10, 14:22**

**LONG TERM CARE**

- History and development of elder law, **1:1**

**LONG TERM CARE—Cont'd**

- Insurance. Long Term Care Insurance, this index
- Lombardi program, **13:43, 14:2**
- Medicaid coverage, income limitations for patient eligibility, **14:2**
- Medicaid coverage of home health care, **13:43**
- New York State Partnership for Long Term Care. Long Term Care Insurance, this index
- Obligation, generally, **1:3**
- Proper planning for, **1:7, 1:13**
- Questionnaire, elder law client, **3:4**
- Questionnaire for married couples, form, **3:37**
- Services alternatives, **18:2**
- Today's market place, **1:22**

**LONG TERM CARE INSURANCE**

- Generally, **18:1 et seq.**
- Affordability, **18:23**
- Age requirements, **18:9**
- Attorney consultation with insurance agent, **3:32**
- Benefits, national availability, **18:42**
- Benefits, nonforfeiture, **18:18**
- Benefit term, **18:13**
- Consumer tips, pre-purchase considerations, **18:41**
- Costs
  - Variables affecting, **18:22**
- Coverage provisions, **18:6-18:21, 19:5**
- Death benefits, **18:19**
- Definitions of services available, **18:2**
- Dollar limits
  - Generally, **18:10**
  - Federal income tax, **18:37**
- Education and outreach program, **18:40**
- Elimination period, **18:12**
- Exclusions, **18:15**
- Federal income tax deductibility, **18:37**
- Free look period, **18:20**
- Home care, **13:43, 14:44, 18:4**
- Indemnity coverage, **18:10**
- Inflation protection, **18:11**

## INDEX

### LONG TERM CARE INSURANCE

#### —Cont'd

- Insurability, **18:5**
- Levels of care, **18:8**
- Life insurance with long term care rider, **18:36**
- Long term care services, definitions, **18:3**
- Medicaid
  - Home care coverage under, **13:43, 14:44**
  - Planning, use of insurance, **14:1, 18:24**
- Minimum standards, New York state, **18:2**
- National availability of benefits, **18:42**
- New York State
  - Income tax credit, **18:38**
- New York State income tax credit, **18:38**
- New York State Partnership for Long Term Care
  - Generally, **18:25**
  - Additional required benefits, **18:31**
  - Benefit levels, **18:28**
  - Covered services, **18:30**
  - Duration of policy, **18:27**
  - Elimination periods for coverage, **18:29**
  - Federal law regarding, **18:35**
  - life insurance with long term care rider, **18:36**
  - Medicaid considerations, **18:34**
  - Medicaid requirements and benefits, **18:32**
  - Minimum standards, **18:26**
  - Policy premiums, **18:33**
  - Waiting periods, **18:29**
- Nonforfeiture benefit, **18:18**
- Notice of nonpayment of premiums, **18:21**
- Nursing home care financing, **19:8**
- Outreach and education program, **18:40**
- Planning considerations
  - Married couple with estate of § 3,500,000, **23:8**

### LONG TERM CARE INSURANCE

#### —Cont'd

- Planning considerations—Cont'd
  - Single individuals in good health, **23:3**
- Pre-existing conditions, **18:14**
- Premiums
  - Generally, **18:33**
  - Cancellation of policy, **18:20**
  - Increases, **18:16**
  - Notice of nonpayment, **18:21**
  - Waiver, **18:17**
- Prior hospitalization, prohibited prerequisite, **18:7**
- Renewability, level premiums, **18:16**
- Robert Wood Johnson Foundation Medicaid eligibility model
  - See New York state partnership for long term care, generally, above
- Selection of, **18:39**
- Taxation of benefits, **20:16**
- Third party notification, **18:21**
- Trial period, **18:20**
- Waiver of premiums, **18:17**

### LONG TERM HOME HEALTH CARE

- Medicaid coverage, **13:43, 14:44**
- Private insurance coverage. Long Term Care Insurance, this index

### LOOK-BACK PERIOD

- Medicaid, **13:41, 14:27**

### LOST DOCUMENTS

- Safeguards, **3:30**

### LOU GEHRIG'S DISEASE

- Medicare (Part A) coverage, **12:6**

### MALPRACTICE

- Tort attorneys as valuable contacts for elder law and special needs attorneys, **2:8**

### MANAGED CARE

- Health Maintenance Organization (HMO), this index
- Medicare, this index

**MANAGING AND DEVELOPING  
THE SUCCESSFUL  
PRACTICE**

Generally, **4:1 et seq., 5:1 et seq.**  
 Advertising as marketing device, **5:4, 5:5, 5:7**  
 Alerts as to changed law as marketing device, **5:4, 5:5**  
 Associate marketing compensation, **5:9**  
 Budget  
     Generally, **4:2, 4:4, 5:2**  
     Categories, marketing, **4:6, 5:9**  
     Marketing budget, **4:4, 5:9**  
     Meetings, **4:12**  
     Monitoring cash flow, **4:4, 4:9-4:11, 5:2**  
     Occupancy expense, **4:4**  
     Overhead, **4:4**  
     Ratios, **4:4, 4:6**  
     Tracking payments, **4:7**  
     Working capital, **4:7**  
 Cash flow monitoring, **4:4, 4:9, 4:10, 5:2**  
 Categories of expenses, **4:6, 5:9**  
 Challenges ahead, **4:1, 5:12**  
 Changing environment in legal profession, **5:11-5:13**  
 Collection of accounts receivables, **4:10, 4:12**  
 Community service as marketing device, **5:4**  
 Conclusions, **4:12**  
 Confirming client appointments, **5:9**  
 Consumers' needs, **4:1, 5:3, 5:12**  
 Creating written action plan, **5:2, 5:13**  
 Current market place, **5:4, 5:11-5:13**  
 Department meetings, **4:12**  
 Driving legal services, consumers as, **5:3, 5:12, 5:13**  
 Ethical considerations of multidisciplinary practice, **5:11**  
 Existing clients, marketing plans as to, **5:4, 5:5**  
 Fees, **5:14**  
 Firm culture and leadership, **5:13**  
 Firm retreat, **4:12**

**MANAGING AND DEVELOPING  
THE SUCCESSFUL  
PRACTICE—Cont'd**

Fixed fee arrangement, **4:10, 4:12**  
 Formula for success, **4:3, 4:12, 5:1, 5:2**  
 Goal setting  
     Budget, **4:4**  
     Formula for success, **4:3, 5:2**  
     Monitoring cash flow, **4:9**  
     Timekeeping, **4:5, 4:6**  
 Initial calls by potential clients, tracking, **5:9**  
 Key trends as to future of elder law, **4:1, 5:11**  
 Marketing budget, **4:4, 5:2, 5:4, 5:9**  
 Marketing meetings, **4:12**  
 Marketing plans, **5:4 et seq.**  
 Marketing strategies, developing, **4:1, 4:3, 5:2**  
 Marketing to general public, **5:8**  
 Marketing to professionals, **5:6**  
 Marketing to public, **5:7**  
 Measuring success, **4:3-4:5**  
 Meeting challenges ahead, **4:12**  
 Meetings, **4:12**  
 Meeting with special needs client, **2:2, 2:8, 5:4**  
 Newsletters as marketing device, **5:4, 5:5**  
 Occupancy expense, **4:4**  
 Overhead, **4:4, 4:7**  
 Payment tracking, **4:7**  
 Practice management or development, percentage of time devoted to, **4:6**  
 Radio or TV or cable as marketing device, **5:4, 5:7**  
 Realization ratio, **4:6**  
 Receivables, **4:6, 4:7, 4:10**  
 Referrals of clients, source of, **4:8, 5:5**  
 Referral sources, marketing to, **5:10**  
 Reports (monthly), **4:2, 4:5, 4:8, 5:2, 5:9**  
 Reshaping law practice, **5:13**  
 Retainers, **4:7, 4:12**  
 Revising strategies, **4:3, 4:12**

## INDEX

### **MANAGING AND DEVELOPING THE SUCCESSFUL PRACTICE—Cont'd**

- Rewarding attorneys and staff, **4:6, 4:12**
- Scheduling appointments, **5:9**
- Seminars as marketing device, **5:4, 5:5**
- Staff, rewarding, **4:6, 4:12**
- Staff meetings, **4:12**
- Success formula, **4:3, 4:12, 5:1, 5:2**
- Team meetings, **4:11**
- Timekeeping, **4:2, 4:5, 4:6, 5:2**
- Timekeeping ratios, **4:5, 4:6**
- Today's market place, **1:22, 5:11-5:13**
- Tools for marketing, **5:4**
- Tracking accounts receivable, **4:10**
- Tracking initial calls as marketing device, **5:9**
- Tracking payments, **4:7**
- Understanding the special needs, **2:2**
- Valuing attorney's service, **5:13**
- Ways to accomplish change of strategy, **4:12**
- Website as marketing device, **5:4**
- Websites, **5:8**
- Working capital, **4:7**

### **MARKETING**

- Managing and Developing the Successful Practice, this index

### **MASTER CARD EXPRESS DEBIT ACCOUNTS**

- Social security, SSI, and veterans benefits, **10:54, 10:55**

### **MATTER OF QUINLAN**

- Case law analysis, **7:51**

### **MATTER OF STORAR**

- Case law analysis, **7:49**

### **MAY v. WARTBURG HEALTH CARE CENTER, MATTER OF**

- Case law analysis, **7:55**

### **MCMATH, JAHI**

- Health care proxy, **7:57**

### **MEDIA**

- Medicaid fair hearings, attending, **16:26**

### **MEDICAID**

- Generally, **13:1 et seq.**
- Acceptance, written notification, **13:54**
- Access NY
  - Health care application, form, **13:63**
  - Supplement A, health care application, **13:64**
- Accident liens, **17:16-17:20**
- Actions pursuing legally responsible relatives' excess resources or income, **13:29-13:34**
- Administrative directives
  - Generally, **13:7**
- Affordable Care Act
  - Provisions affecting older adults and people with disabilities, **1:15**
- Age and related and eligibility requirements, **13:16-13:20**
- Agent Orange Settlement Funds, **14:10, 14:22**
- Aid continuing, fair hearings
  - Generally, **16:15**
  - Exceptions, **16:16**
- Aliens, eligibility, **13:15**
- American Indians, special payments to, **14:10, 14:22**
- Annuities, **14:1, 14:25**
- Appeals and review, **13:58, 16:36**
  - DRA transfers, **13:56**
- Application
  - Generally, **13:45 et seq.**
  - Acceptance notice, **13:54**
  - Access NY health care application, form, **13:63**
  - Assignments, **13:46**
  - Assistance from another person, **13:45**
  - CDPAP, **13:52**
  - Collateral investigation, **13:48**
  - Contents (substantive information required), **13:46**

**MEDICAID—Cont'd**

- Application—Cont'd
  - Conversion from community coverage to nursing home coverage, **13:61, 13:62**
  - Denial notice, **13:56, 13:57**
  - Documentation, requirements, **13:47**
  - DRA transfer, **13:56**
  - Expedited home care applications, **13:62**
  - Immediate need of personal care aides, **13:51**
  - Informational facts included, **13:46**
  - Interest or dividend income, **13:49**
  - New York City, form for, **13:63**
  - New York State, form for, **13:63**
  - Personal care aides, **13:50, 13:51**
  - Person care services, **13:52**
  - Re-application after DRA transfer penalty period, **13:56**
  - Recertification, **13:60**
  - Reconsideration after denial, **13:58**
  - Reduction or discontinuance of benefits, **13:59**
  - Required documents, **13:47**
  - Required information, **13:46**
  - Requirements, **13:45**
  - Retroactivity, **13:55**
    - DRA transfers, **13:56**
  - 1099 reports, **13:49**
  - Time limitations, determination of eligibility, **13:53**
- Article 78 proceedings, fair hearing decisions, **16:36**
- Assets transfer. Transfer of assets, below
- Assignments
  - Generally, **17:21**
  - Actions for excess income or resources of legally responsible relative, **13:30, 13:32**
  - Application for Medicaid provisions, **13:46**
  - Lien, distinguished, **17:21**
  - Requirement for eligibility, **13:22**
  - Transfer of assets, **15:7**

**MEDICAID—Cont'd**

- Attorneys
  - Powers of attorney, below
- Authorization for verification of resources
  - applicant, **13:73**
  - legal spouse, **13:74**
- Authorization to apply for medicaid on my behalf, form, **13:71**
- Authorized representative designation, change request, **13:75**
- Bed holds, hospitalization of nursing home resident, **19:20**
- Beneficiaries, disabled, **10:35**
- Blindness, eligibility requirements, **13:18, 14:12**
- Burials, resource standards, **14:17, 14:18**
- Buy in program, **13:6**
- CDPAP, immediate need, **13:52**
- Certificate of eligibility, **13:53, 13:60**
- Chart
  - Medicaid 2026 Update, **13:80**
- Choice of medical providers, **13:3**
- Chronic care, renewal, **13:69**
- Citizenship, **13:15**
- Collateral investigation, **13:48**
- Community spouses
  - Generally, **17:6, 17:7**
  - Allowances, **14:40 et seq.**
  - Recoveries from, **13:26 et seq., 17:22**
  - Transfer of assets, **15:14**
- Consent to release (NYC), **13:78**
- Consumer Directed Home Care Program, **13:36**
- Continuing care retirement communities, **19:32-19:35**
- Conversion from community coverage to nursing home coverage, **13:61**
- Counties' fiscal responsibility, **13:8**
- "Courtesy application," disputes between counties, fiscal responsibility, **13:12**
- Crime Victims' Assistance Funds, **14:10, 14:23**
- Criminalizing planning efforts, **14:33**

## INDEX

### MEDICAID—Cont'd

- Decisions. Medicaid Fair Hearings, this index
- Declaration of Legally Responsible Relative (NYC), form, **13:79**
- Deficit Reduction Act of 2005, **14:1**
- Definitions of Medicaid terminology, this index
- Denial notice
  - Generally, **13:57**
  - DRA transfers, **13:56**
  - Reconsideration, **13:58**
- Department of health and human services
  - Health care financing administration, **14:47**
- Disability questionnaire, **13:68**
- Disabled persons
  - Eligibility, **10:35, 13:17, 13:66, 14:12**
- Discontinuance of benefits, **13:59**
- Distinguished from Medicare, **12:1**
- Dividend income, effect on application, **13:49**
- Documentation, requirements, **13:47**
- Earned income credits, **14:23**
- Electronic monitoring device systems, **13:39**
- Eligibility ethics, **1:16**
- Eligibility requirements
  - Generally, **13:1**
  - Age, **13:16-13:20**
  - Assignments to Dept. of Social Services, **13:22**
  - Blindness, **13:18**
  - Buy in program, **13:6**
  - Certificate of eligibility, **13:53**
  - Citizenship, **13:15**
  - Determining, time limitations, **13:49**
  - Disability, **13:17**
  - Financial, **13:21**
  - Guardianship proceeding to achieve, **8:7**
  - Income standards, below
  - Public assistance, persons eligible for, **13:19**
  - Recertification, **13:60**

### MEDICAID—Cont'd

- Eligibility requirements—Cont'd
  - Residency, **13:10-13:14**
  - Resources standards, below
  - SSI recipient, **13:20**
- Employment-related information, **13:6, 13:46**
- Estate claims, recovery, **17:3**
- Evidence, fair hearings, **16:24**
- Excess income, **13:30, 14:3, 14:4**
- Excess resources. Resource standards, below
- Exempt income, **14:10, 14:22**
- Exempt resources, **6:45, 14:16**
- Exempt transfers, **14:36, 14:37**
- Exempt trusts, **21:14**
- Expanded Medicaid estate recovery, **17:9**
- Fair hearings. Medicaid Fair Hearings, this index
- Financial eligibility requirements, **13:21**
- Florida, retiring to, **13:14**
- Form
  - Authorization to apply for medicaid on my behalf, **13:71**
- Form
  - Chronic care, renewal, **13:69**
  - Declaration of Legally Responsible Relative (NYC), **13:79**
  - List of documents required for medicaid application, **13:65**
  - Supplement A, access NY health care application, **13:64**
- Fraud, recovery of Medicaid benefits paid, **17:2**
- Fraudulent transfers, actions to recover from legally responsible relative, **13:33**
- Gifts. Transfer of assets, below
- GIS (General Information System) notices, **13:7**
- Guardianship proceeding to achieve eligibility, **8:7**
- Hardship waivers, **14:1**
- Health insurance premiums, **14:8**
- Hearings. Medicaid Fair Hearings, this index

**MEDICAID—Cont'd**

History and development of elder law, **1:1**  
 Home equity value, **14:1**  
 Home health care, this index  
 Homestead, transfer of, **14:31**  
 Homestead as resource, **6:45, 14:1, 14:20, 14:21**  
 Illegal aliens, ineligibility, **13:15**  
 Immediate need for person care services or CDPAP, **13:52**  
 Impoverishment of spouse, **14:40 et seq.**  
 Income coverage, **13:53**  
 Income standards  
     Generally, **14:2**  
     Adult home. eligibility, **14:2**  
     Annuities, **14:1, 14:25**  
     Assisted living facility. eligibility, **14:2**  
     Available income, **14:11**  
     Buy in program, **13:6**  
     Calculating net available monthly income, **14:2**  
     Deeming income, **14:12**  
     Deficit Reduction Act of 2005, **14:1**  
     Definition of income, **14:5**  
     Earned income, **14:6**  
     Earned income credits, **14:23**  
     Excess income claim against legally responsible relative, **13:30**  
     Exempt income, **14:10, 14:22**  
     Expenses, income, **14:9**  
     Group home. eligibility, **14:2**  
     Health insurance premiums, **14:8**  
     Home care, eligibility, **14:2**  
     Impoverishment of spouse, **14:40 et seq.**  
     In-patient hospital bills, income overages, **14:4**  
     Interest income, effect on application, **13:49**  
     Lombardi program, **14:2**  
     Long term home health care, eligibility, **14:2**  
     Nazi Persecution Funds, **14:10, 14:22**

**MEDICAID—Cont'd**

Income standards—Cont'd  
     Nursing homes, eligibility, **14:2**  
     Overages, outstanding medical bills, **14:3, 14:4**  
     Parental refusal, **14:12**  
     Refusal to pay medical expenses, spousal or parental, **13:26 et seq.**  
     Rental income, **14:7**  
     Spend-downs, **14:3**  
     Tax refunds, **14:23**  
     Unearned income, **14:7**  
 Income tax refunds, **14:23**  
 Income tax reports (1099), **13:49**  
 Insurance proceeds from loss, damage, or theft, **14:23**  
 Interest income, effect on application, **13:49**  
 Interjurisdictional disputes, fiscal responsibility between counties, **13:12**  
 Investigation, collateral; application process, **13:48**  
 Legally responsible relatives  
     Generally, **13:23 et seq.**  
     Actions pursuing excess income or resources, **13:29-13:34**  
     Deeming income, generally, **14:12**  
     Exceptions, **13:25**  
     Living apart, **13:34**  
     Refusal to pay medical expenses, spousal or parental  
         Generally, **13:23 et seq.**  
         Continuing liability, **13:27**  
         Deemed income, applicability, **14:12**  
         Excess income or resources, pursuing, **13:29-13:34**  
         Post Medicaid eligibility planning, **13:28**  
 Same sex marriages, **13:24**  
 Support proceedings  
     generally, **13:29**  
     Debtor Creditor Law, **13:33**  
     Excess income, actions pursuing, **13:30**  
     Excess resources, actions pursuing, **13:32**

## INDEX

### MEDICAID—Cont'd

- Legally responsible relatives
  - Cont'd
  - Support proceedings—Cont'd
    - Family court, judgment against excess resources in, **13:31**
- Legal resident requirement, **13:15**
- Legislative history and intent, **13:1**
- Liens, Medicaid
  - Generally, **17:3**
  - Accident liens, recovering proceeds of action arising from accident or malpractice
    - Generally, **17:16**
    - Attorneys' fees for collecting, **17:20**
    - Person under age 21, **17:19**
    - Priority of accident liens, **17:17**
    - Reduction of, **17:18**
    - Waivers of, **17:18**
  - Assignment, distinguished, **17:21**
  - Community spouses, **17:6, 17:7**
  - Creditors, preferred, **17:10**
  - Creditors, seven month time factor, **17:12**
  - Election against estate of community or non-applying spouse, **17:7**
  - Estate, defined, **17:8**
  - Expanded Medicaid estate recovery, **17:9**
  - Limitations
    - Over age 55, generally, **17:4**
    - Over age 55, ten year limitation, **17:5**
    - Statute of limitations, **17:11**
    - Surviving spouses, **17:6**
  - Mandatory enforcement, **17:13**
  - Negotiation, **17:14**
  - Non-Medicaid spouses, **17:6**
  - Preferred creditors, **17:10**
  - Social services department, preferred creditor, **17:10**
  - Time
    - Creditors, seven month time factor, **17:12**
    - Statute of limitations, **17:11**
  - Undue hardship waiver, **17:13**

### MEDICAID—Cont'd

- Life estate and remainder interest table, **14:45**
- Life estates, transfer of assets, **14:1, 14:35**
- Living Trusts, this index
- Long term care insurance
  - life insurance with long term care rider, **18:36**
  - New York state partnership for long-term care
    - Deficit Reduction Act of 2005, **14:1**
    - Requirements and benefits, **18:32**
- Long term home health care, **13:43, 14:44, 18:24**
- Look-back period
  - Deficit Reduction Act of 2005, **14:1**
  - Home care, **13:41, 14:28**
  - Nursing homes, **14:27**
  - Omnibus Budget Reconciliation Act of 1993, **21:6**
- Managed care programs
  - Generally, **13:3, 13:4**
  - Long term care programs, **13:4**
  - Social security waiver, **13:5**
- Mandatory managed long term care, **19:34**
- Medicaid agency's support proceedings against legally responsible relatives, **13:29**
- Medicaid 2026 Update, chart, **13:80**
- Medical care categories offered, **13:2**
- Medical providers, freedom to choose, **13:3**
- Medical request for home care (M-11q), form, **13:67**
- Nazi Persecution Funds, **14:10, 14:22**
- New York City Medicaid application, form, **13:63**
- New York/Florida connection, **13:14**
- New York State forms
  - Medical report for determination of disability, **13:66**
- Notice
  - Application denial notice, **13:57**
  - DRA transfers, **13:56**

**MEDICAID—Cont'd**

- Notice—Cont'd
  - Eligibility acceptance, **13:54**
  - Fair hearings, this index
  - Reduction or discontinuance of benefits, **13:59**
- Nursing homes
  - Care, **13:44, 14:44, 18:24**
  - Companions, **19:15**
  - Hardship waivers, **14:1**
  - Income standards of Medicaid recipient, **14:2**
  - Negligence or abuse by, action for damages, affect on Medicaid coverage, **19:26**
  - Nurses aides, **19:15**
  - Out of state nursing home care, **19:18**
  - Personal incidental allowance accounts, **19:17**
  - Prescription drugs, **19:14**
  - Private duty nurses, **19:15**
- Out of state moves, **19:18**
- Overview, **13:1**
- Parental liability for medical expenses
  - Generally, **13:26, 14:12**
  - Continuing liability, **13:27**
  - Income standards, **14:12**
  - Post Medicaid eligibility planning, **13:28**
- Payment structure, **13:9**
- Personal care aides, home care, **13:50, 13:51**
- Personal emergency response services, home care, **13:39**
- Personal incidental allowance accounts, nursing home residents, **19:17**
- Person care services, immediate need, **13:52**
- Planning considerations
  - Generally, **1:13, 1:14, 14:1, 15:18**
  - Availability of assets for care, **15:21, 15:22, 15:24**
  - Criminalizing, **14:33, 17:2**
  - Documenting the gift, **15:16**
  - Donee identity concerns, **15:23**
  - Ethical considerations, **15:29**

**MEDICAID—Cont'd**

- Planning considerations—Cont'd
  - Ethics, **1:16**
  - Family agreements, **15:25, 15:33**
  - Gifting as planning method. Gifts, this index
  - Guardianships, **8:74**
  - Husband and/or wife, for, **1:13, 23:6, 23:7, 23:19**
- Ill spouse
  - Generally, **23:10, 23:11**
  - Both spouses requiring care, **23:19**
  - Requiring nursing home care, **23:15, 23:16**
  - Residence co-occupied with sibling, **23:17**
- Incomplete gifts, **15:26**
- Inter-relationship with estate tax planning, **20:5**
- Jointly held assets, **15:8**
- Living Trusts, this index
- Long term care insurance, use, **18:24**
- Mid-course adjustments, **15:20**
- Nominee and trust agreements, **15:25, 15:32**
- Outright gifts to a spouse, **15:17**
- Post consultation memorandum, planning for the residence, **3:37**
- Promissory note, DRA compliant, **15:34**
- Return of gifts, **15:20, 15:21, 15:24**
- Single individuals
  - Distinguishing planning for married couples from, **1:13**
  - Requiring home care, **23:4**
- Special arrangements, **15:25, 15:32, 15:33**
- Spouse, outright gifts to, **15:17, 20:25**
- Titling of assets, **15:8**
- Transfer of assets, **15:18**
- Wife and/or husband, for, **1:13, 15:17, 23:6, 23:7**
- Planning options, **14:31**

## INDEX

### MEDICAID—Cont'd

- Powers of appointment
  - Sample language of limited testamentary power, **15:30**
  - Tax consequences, **6:44**
- Powers of attorney
  - Collateral investigation on Medicaid application, **13:48**
  - Enumerated powers, **6:28**
  - Expanded powers, **6:40, 6:44**
  - Planning techniques, **6:45**
- Pre-DRA, transfers of assets on or after August 11, 1993 and before February 8, 2006, **14:31**
- Prior gifts
  - Client consultation, **3:20**
  - Client questionnaire, **3:8**
- Private duty nurses, nursing home, **19:15**
- Private pay of medical expenses, reimbursing, **13:9**
- Promissory note
  - Generally, **14:1**
  - Form, **15:34**
- PRUCOL (Persons Residing Under Color of Law) classed aliens, **13:15**
- Public assistance, eligibility requirements, **13:19**
- Recertification of eligibility, **13:60**
- Reconsideration after denial, **13:58**
- Record, fair hearings, **16:31**
- Recoveries and reimbursements
  - Generally, **17:1, 17:3**
  - Accident liens, recovering from proceeds from action arising from accident or malpractice, **17:16-17:20**
  - Actions pursuing excess resources or income, **13:29-13:34**
  - Assignments, above
  - Attorneys' fees, liens, **17:20**
  - Community spouses, from, **17:22**
  - Creditors
    - Debtor Creditor Law authority, **13:33**
    - Seven month time factor, **17:12**
  - Expanded Medicaid estate recovery, **17:9**

### MEDICAID—Cont'd

- Recoveries and reimbursements
  - Cont'd
  - Fraud, **17:2**
  - Improperly paid Medicaid benefits, **17:2**
  - Incorrect payments, **17:2**
  - Interest on estate claims, **17:3**
  - Liens, above
  - Negotiation of reduction or waiver of liens, **17:14**
  - Parental liability for medical expenses, **13:26 et seq.**
  - Payments made pending fair hearing decisions, **17:2**
  - Properly paid Medicaid benefits, **17:3 et seq.**
  - Real estate liens, institutionalized owner, **17:15**
  - Reduction or discontinuance of benefits, **13:59**
  - Rental income, **14:7**
  - Time
    - Creditors, seven month time factor, **17:12**
    - Statute of limitations, **17:11**
    - Undue hardship, **17:14**
- Renewal, **13:69**
- Residence, funding Medicaid asset protection trust with, **21:12**
- Residence, post consultation memorandum, planning for the residence, **3:37**
- Residency questions on application, **13:46**
- Residency requirement
  - Generally, **13:10**
  - Between states, **13:13**
  - Counties, Medicaid between, **13:11**
  - States, New York-Florida connection, **13:14**
- Residential health care facilities, submission of request from, **13:70**
- Resource standards
  - Generally, **14:13**
  - Burial allowance, **14:17**
  - Burial space and trust, **14:18**
  - Countable resources, **14:14**

**MEDICAID—Cont'd**

- Resource standards—Cont'd
  - Earned income credits, **14:23**
  - Excess resources
    - Generally, **14:24**
    - Actions to recover legally responsible relative's excess resources, **13:29-13:34**
    - Spending-down, **14:42**
    - Transfer of assets, below
  - Exempt resources, **14:16**
    - Generally, **14:18, 14:22, 14:23**
    - Burial funds and space, **14:17**
    - Homestead, **14:20, 14:21**
    - Irrevocable trust fund with funeral director, **14:17**
    - Personal property, **14:19**
    - Time limited resources, **14:23**
  - Homestead, **14:20, 14:21**
  - Insurance proceeds from loss, damage, or theft, **14:23**
  - Irrevocable trust fund with funeral director, **14:17**
  - Permanent absent status, impact, **14:21**
  - Personal property, **14:19**
  - Retirement accounts, **14:14, 14:15, 14:42**
  - Spending-down, **14:3, 14:42**
  - Time limited exempt resources, **14:23**
  - Respite care, **19:3**
  - Retirement accounts, **14:14, 14:15, 14:42**
  - Retroactivity of application, **13:55**
    - DRA transfers, **13:56**
  - Reverse mortgage payments, **14:10, 14:22**
  - Roomers, boarders, and lodgers income, **14:6**
  - Same sex marriages, legally responsible relatives, **13:24**
  - Self-employment income, **14:6**
  - Services covered, list, **13:2**
  - Social security waiver, **13:5**
  - Special Needs, this index
  - Spend-downs, **14:3, 14:42, 19:33**

**MEDICAID—Cont'd**

- Spousal impoverishment. Transfer of assets, below
- Spousal liability for medical expenses
  - Generally, **13:26, 14:12**
  - Actions pursuing excess income and resources, **13:29-13:34**
  - Continuing liability, **13:27**
  - Post Medicaid eligibility planning, **13:28**
  - Recoveries of payments properly made, **17:22**
- Spouses, impoverished community spouses
  - Generally, **14:40**
  - Enhanced community spouse allowances, **14:43**
  - Income allowance of community spouse, **14:41, 14:43**
  - Lombardi program, **14:44**
  - Resource allowance of community spouse, **14:42, 14:43**
  - Retirement plans owned by community spouse, **14:42**
- Spouses, transfers by community spouses, **17:22**
- State administration, **13:7**
- State medicaid manual
  - Life expectancy tables for males and females, **14:47**
- Structure
  - Generally, **13:1, 13:7**
  - Fiscal responsibilities of counties, **13:8**
  - GIS (general information system) notices, **13:7**
  - Payment structure, **13:9**
- Submission of application on behalf of applicant, **13:72**
- Supplemental security income (SSI)
  - Generally, **10:50**
  - Discontinuance of Medicaid, **10:51, 10:52**
  - Eligibility, generally, **13:20**
  - Recipient status, automatic Medicaid eligible, **13:20**
- Taxation
  - Powers of appointment, **6:44**

## INDEX

### MEDICAID—Cont'd

- 1099 reports, application process, **13:49**
- Terminology. Definitions, this index
- Transfer of assets
  - Generally, **14:1, 14:26 et seq., 15:1 et seq.**
  - Annuities, **14:1, 14:25, 15:9**
  - Application for Medicaid, inquiry, **13:46, 13:56**
  - Application for Medicaid after transfer penalty period, **13:56**
  - Assignments, **15:7**
  - Attorneys, joint representation agreement, **1:16, 15:29**
  - Availability of assets for care, **15:22**
  - Availability problems, **15:24**
  - Bad faith, **15:24**
  - Bank accounts, **15:4, 15:8**
  - Bankruptcy of donee, **15:24**
  - Business liabilities of donee, **15:24**
  - Community spouse, **15:21**
  - Community spouses, transfers by, **17:22**
  - Criminalizing, **14:33**
  - Decision to make outright gift, **15:2**
  - Deficit Reduction Act of 2005, **14:1**
  - Disabled children, transfers to or solely for benefit of, **14:37, 21:21, 21:39**
  - Documenting the gift, **15:16**
  - Donee identity concerns, **15:23**
  - DRA, transfers on or after February 8, 2006, **13:56, 14:1**
  - Effect on eligibility, **13:46**
  - Ethical considerations, **15:29**
  - Exempt transfers, **14:36, 14:37, 15:11**
  - Family agreements, **15:25, 15:33**
  - Fraudulent transfers, actions to recover from legally responsible relative, **13:33**
  - Hardship waivers, **14:1**
  - Home equity value, **14:1**
  - Identifying existence of assets, **3:7**
  - Incomplete gifts, **15:26**

### MEDICAID—Cont'd

- Transfer of assets—Cont'd
  - Inheritance, **15:7**
  - IRAs, **15:5**
  - Jointly held assets, **15:8**
  - Judgments, affect on return of gift, **15:24**
  - Legal ethics, conflicts of interest, **15:29**
  - Liens, affect on return of gift, **15:24**
  - Life estates, **14:1, 14:35, 15:10**
  - Life insurance, **14:1, 15:6**
  - Loans, **14:1**
  - Look-back period, **14:1, 14:28, 21:6**
  - Matrimonial problems, **15:24**
  - Medicaid asset protection trust
    - Form, **21:33**
    - Funding with residence, **21:12**
    - Planning overview, **21:11**
  - Memorandum regarding transfer of residence with retained life estate or to a trust, form, **15:31**
  - Memorandum to file summarizing consultation, **3:37**
  - Mid-course adjustments, **15:20**
  - Mortgages, **14:1**
  - Multiple transfers, **14:1, 14:34, 15:28**
  - Nominee and trust agreement, **15:25, 15:32**
  - Nominee and trust agreements, **15:25, 15:32**
  - Non-exempt transfers, calculating, **15:19**
  - OBRA 1993, transfers rules prior to, **14:31**
  - Outright gifts to a spouse, **15:17**
  - Overcoming presumption of, **14:38**
  - Overcoming presumption of transfer to qualify, **15:15**
  - Overview, **15:3**
  - Partial return of gifted assets, **14:1**
  - Penalties, **14:1**
  - Planning considerations, generally, **15:18**

**MEDICAID—Cont’d**

Transfer of assets—Cont’d

- Pre-DRA, assets transfers on and after August 11, 1993, **14:31**
- Presumption of, overcoming, **14:38**
- Promissory note, **14:1, 15:34**
- Real property, **15:7, 15:31**
- Recoveries from community spouses, **17:22**
- Retirement accounts, **15:5**
- Spouse or disabled child, **15:12 et seq.**
- Spouses, transfers to or solely for benefit of, **14:37, 21:21, 21:39**
- Stocks, **15:4**
- Taxation, consequences of outright gifts, **15:27, 20:39**
- Time period, on and after August 11, 1993, **14:31**
- Undue hardship standards, **14:39**
- Transfer of assets on or after August 11, 1993 and before February 8, 2006, pre-DRA, **14:31**
- Transfer of homestead, **14:31**
- Transfer start date, **14:29, 14:30**
- Undue hardship, **14:39, 17:14**
- Waiver
  - Liens, of, **17:13, 17:14, 17:18**
  - Program, **13:42**
  - Social security waiver, **13:5**
  - Transfer of assets, hardship waivers, **14:1**
- Welfare Reform Act, aliens’ eligibility, **13:15**

**MEDICAID ASSET PROTECTION TRUST**

- Taxation, **20:54**

**MEDICAID FAIR HEARINGS**

- Generally, **16:1**
- Adjournment
  - Generally, **16:21**
  - Request, forms, **16:40**
- Adjourn/reopened hearings
  - Request, forms, **16:39**
- Agency conference, **16:9**
- Agency’s responsibilities, **16:28**

**MEDICAID FAIR HEARINGS —Cont’d**

- Aid continuing, **16:11, 16:15, 16:16**
- Article 78 proceedings, **16:36**
- Attendance
  - Media presence, **16:26**
  - Persons permitted, **16:25**
- Attorney as hearing officer, **16:29**
- Authorization to Represent form
  - Request, forms, **16:41**
- Burden of proof, **16:23, 16:24**
- Consolidated hearings, **16:27**
- Continuation of benefits pending outcome, **16:11, 16:15, 16:16**
- Decision
  - Generally, **16:32**
  - Corrected decisions, **16:34**
  - Judicial review of, **16:36**
  - Precedents, **16:35**
  - Reopened hearings, **16:34**
  - Stare decisis, **16:35**
  - Without hearing, **16:33**
- Evidence, **16:23, 16:24**
- Fax or mail, request by
  - Request for hearing, form, **16:37**
  - Request to adjourn/reopen hearing, form, **16:39**
- Grounds, **16:2**
- Hearing officers
  - Powers and duties, **16:21, 16:29**
  - Removal, **16:30**
- Internet, request by
  - Request for hearing, form, **16:38**
  - Request to adjourn hearing, form, **16:40**
- Jurisdictional disputes, **13:10-13:14**
- Local agency’s responsibilities, **16:28**
- Location of hearing, **16:11, 16:22**
- Media presence, **16:26**
- Notice
  - Generally, **16:3, 16:18**
  - Acceptance of notice, **16:6**
  - Adequate notice, **16:4**
  - Contents of notice, **16:5, 16:18**
  - Right to judicial review, **16:32**
  - Timely notice, **16:7, 16:8**
- Overview, **16:1**

## INDEX

### MEDICAID FAIR HEARINGS

#### —Cont'd

- Precedential value, **16:35**
- Priority in obtaining, **16:20**
- Receive Care in the Community, **16:17**
- Reconsideration, **16:10**
- Record of hearing, **16:29, 16:31, 16:32, 16:34**
- Removal of hearing officers, **16:30**
- Re-opened hearing
  - Generally, **16:34**
  - Request, forms, **16:39**
- Reopened hearings
  - Generally, **16:34**
- Request for hearing
  - Generally, **16:11**
  - Abandonment of, **16:14**
  - Fax, form, **16:37**
  - Form, **16:37**
  - Internet, form, **16:38**
  - Mail, form, **16:37**
  - Online, **16:38**
  - Timeliness, **16:12**
  - Withdrawal of, **16:13**
- Request to adjourn hearing
  - Internet, form, **16:40**
- Request to adjourn/re-open hearing
  - Fax or mail, form, **16:39**
- Review of decision, **16:32-16:36**
- Right to hearing, **16:2**
- Right to return home, **16:17**
- Scheduling hearing
  - Generally, **16:19**
  - Adjournment of hearing, **16:21**
  - Priority in obtaining hearing and decision, **16:20**
- Stare decisis concept, **16:35**
- Who may be present, **16:25, 16:26**

### MEDICAID WAIVER PROGRAMS

- Generally, **13:42**

### MEDICAL AID

- Medical Aid in Dying Act, **7:40**

### MEDICAL AID IN DYING

- Generally, **7:46**

### MEDICAL ORDERS FOR LIFE-SUSTAINING TREATMENT (MOLST)

- Generally, **7:44, 7:64**
- Legal requirements checklist for individuals with developmental disabilities, **7:65**

### MEDICAL PROVIDERS

- Health Care, this index
- Medicare, this index
- Nursing homes, this index
- Physicians, this index

### MEDICAL SAVINGS ACCOUNT PLAN

- General overview, **12:83, 12:87**

### MEDICARE

- Generally, **12:1 et seq.**
- Advantage Program. Medicare (Part C), this index
- Appeals
  - Parts A and B
    - Home health care, chart, **12:102**
  - Appeals and review
    - Health maintenance organizations, **12:95, 12:96**
  - Part A
    - Generally, **12:42 et seq.**
    - Part B, generally, **12:82**
- Center for Medicare Advocacy, Inc., generally, **1:19**
- Chart of medicare Parts A and B appeals
  - Home health care, **12:102**
- Chart of ten standard medicare supplemental plans, **12:98**
- Claims and payments
  - Generally, **12:77**
  - Limiting charge, nonparticipating providers, **12:80**
  - Nonparticipating providers, **12:79, 12:80**
  - Participating providers, **12:78**
  - Physician payment reform, relative value units, **12:81**
  - Relative value units, **12:81**
  - Secondary Payer Program, **12:76**

**MEDICARE—Cont'd**

- Claims and payments—Cont'd
  - Worker's compensation claims, **12:76**
- Combination medical savings account plans, **12:1**
- Conditional payments, **12:76**
- Consulting with Medicare Rights Center as to benefits, **3:33**
- Coordinated care plans
  - Generally, **12:1**
  - Part C, Medicare [plus] + choice, **12:83 et seq.**
- Covered providers limitations, **12:74**
- Distinguished from Medicaid, **12:1**
- Form
  - Appointment of representative, **12:101**
  - Questionnaire (Express Form), **3:34**
  - Questionnaire (Long Form), **3:35**
- Funding, generally, **12:2**
- Health maintenance organizations (HMO)
  - Generally, **12:91**
  - Advantages, **12:92**
  - Appeal and review, **12:95, 12:96**
  - Disadvantages, **12:93**
  - Part C, Medicare [plus] + choice, **12:84**
  - Risk HMOs and cost basis HMOs, compared, **12:94**
  - Suit against HMO, **12:97**
- History and development of elder law, **1:1**
- Managed care. Health maintenance organization (HMO), above
- Medical savings account plans, **12:83, 12:87**
- Medigap insurance, **12:89, 12:90**
- Nursing homes
  - Notice, care not covered, **19:12**
  - Prescription drugs, **19:14**
- Overview
  - Generally, **12:1**
  - Hospice care, **12:37**
  - Managed care and HMOs, **12:91**
  - Medicare Part A, **12:3, 12:42, 12:45**

**MEDICARE—Cont'd**

- Overview—Cont'd
  - Medicare Part B, **12:54**
  - Medicare Part C (Medicare [plus] + Choice), **12:83**
  - Part A. Medicare (Part A), this index
  - Part B. Medicare (Part B), this index
  - Part C. Medicare (Part C), this index
  - Part D. Medicare (Part D), this index
- Preferred provider organizations (PPO)
  - Part C, Medicare [plus] + choice, **12:84**
- Private fee for service plans, **12:1**
  - Part C, Medicare [plus] + choice, **12:87**
- Providers, overview
  - Chiropractors limitations, **12:74**
  - Conditional payments, **12:76**
  - Covered providers limitations, **12:74**
  - Dentists limitations, **12:74**
  - Medicare set aside trusts, **12:76**
  - Nonparticipating, **12:79, 12:80**
  - Optometrists limitations, **12:74**
  - Participating, **12:78**
  - Podiatrists limitations, **12:74**
  - Secondary Payer Program, **12:76**
  - Uncovered services, **12:75**
  - Worker's compensation claims, **12:76**
- Provider sponsored organizations (PSO)
  - Part C, Medicare [plus] + choice, **12:85**
- Qualified Medicare beneficiaries (QMBs), **12:2**
- Questionnaire (Express Form), **3:34**
- Questionnaire (Long Form), **3:35**
- Religious fraternal benefit societies
  - Part C, Medicare [plus] + choice, **12:86**
- Request for hearing by administrative law judge
  - HA-501-U5, **12:100**
  - OMHA-100, **12:99**
- Secondary payer program, **12:76**
- Set Aside Trusts, **12:76**

## INDEX

### **MEDICARE—Cont'd**

- Social security disability benefits,  
**10:32, 10:35**
- Uncovered services, **12:75**

### **MEDICARE (PART A)**

- Generally, **12:1, 12:3**
- Administrative law judges hearings.  
Hearings, this subheading
- ALS (Lou Gehrig's disease) cover-  
age, **12:6**
- Appeals and reviews, this index
- Benefit periods
  - General rule, **12:33**
  - Hospice care, **12:40**
  - Lifetime reserve days, **12:34**
  - Psychiatric care, in-patient, **12:36**
  - Skilled nursing care maximum  
stay, **12:25**
  - Spell of illness, **12:35, 12:36**
- Bereavement services, **12:39**
- Blood transfusions, **12:12, 12:13,**  
**12:30**
- Categorization of hospital admis-  
sions, **12:15, 12:16**
- Certificate of medical necessity for  
hospitalization, **12:14**
- Claims
  - Administrative law judge hearings,  
**12:45-12:51**
  - Appeals and reviews, this index
  - Fiscal intermediaries, **12:42**
  - Processing, **12:15-12:18**
- Coinsurance
  - Home health care services, **12:32**
  - Hospice care, **12:41**
  - Hospital care, **12:32**
  - Nursing home care, **12:32**
  - Private room, **12:13**
  - Spell of illness or benefit period,  
**12:35, 12:36**
- Coverage
  - Generally, **12:3, 12:12, 12:13**
  - ALS (Lou Gehrig's disease), **12:6**
  - Custodial care exclusion, **12:22,**  
**12:25**
  - Disabled persons under age 65,  
**12:5, 12:6**
  - Disclosure to patient, **12:14**

### **MEDICARE (PART A)—Cont'd**

- Coverage—Cont'd
  - Exclusions, **12:13, 12:22, 12:25**
  - Hearings before administrative law  
judges to determine, **12:45 et**  
**seq.**
  - Informing patient about coverage,  
**12:14**
  - Medical necessity requirement,  
**12:14, 12:23**
  - People under age 65 with end stage  
renal disease or ALS, **12:6**
  - Persons contributing to social  
security or railroad retirement  
system, **12:4**
  - Skilled care services requirement,  
**12:20-12:26**
- Custodial care exclusion, **12:22,**  
**12:25**
- Deductibles
  - Blood transfusions, **12:12, 12:13**
  - Home health care services, **12:32**
  - Hospice care, **12:41**
  - Hospital care, **12:32**
  - Nursing home care, **12:32**
  - Spell of illness or benefit period,  
**12:35, 12:36**
- Definitions, this index
- Dementia patients, **12:23**
- Diagnostic related groups (DRGs),  
**12:15, 12:16**
- Disabled persons under age 65
  - Coverage, **10:32, 10:35, 12:5, 12:6**
  - Enrollment, **12:11**
- Disclosure of coverage to patient,  
**12:14**
- Early discharge of patient, **12:15**
- Enrollment eligibility
  - Automatic eligibility, overview,  
**12:3**
  - Covered individuals not eligible  
for social security or railroad  
retirement benefits, **12:8**
  - Covered individuals receiving  
social security or railroad  
retirement benefits, **12:7**
  - Covered individuals working after  
age 65, **12:9**

**MEDICARE (PART A)—Cont'd**

- Enrollment eligibility—Cont'd
  - Disabled persons under age 65, time period for enrollment, **12:11**
  - Individuals with end stage renal disease, time period for enrollment, **12:11**
  - Uncovered individuals (voluntary purchasers), **12:10**
- Federal Health Care Financing Administration (HCFA)
  - Appeal and review, **12:42**
- Fiscal intermediaries, processing and reviewing claims, **12:42**
- Funding through FICA, **12:2**
- Hearings before administrative law judge
  - General overview, **12:45**
  - Attorneys' fees, **12:46**
  - Medicare administrative contractors (MACs), **12:44**
  - Parties, **12:50**
  - Physician contact by attorney, **12:48**
  - Preparation by attorney, **12:47-12:49**
  - Procedure, **12:51**
  - Request by ALJ, forms, **12:99, 12:100**
  - Witnesses, **12:50, 12:51**
- Home health care services, **12:12, 12:27 et seq.**
- Hospice care, **12:12, 12:37-12:41**
- Judicial review in federal district court, **12:53**
- Lifetime reserve days, **12:34**
- Long-term nursing home care exclusion, **12:25**
- Lou Gehrig's disease coverage, **12:6**
- Medical necessity requirement, **12:14, 12:23**
- Medicare administrative contractor (MAC), **12:18**
- Nursing home care. Skilled nursing care, below
- Outlier days adjustments, **12:16, 12:17**

**MEDICARE (PART A)—Cont'd**

- Outpatient prospective payment system, **12:17**
- Patient billing, **12:15**
- Payment system, **12:15-12:18, 12:77**
- Peer Review Organization (PRO), **12:14, 12:43**
- Peer review organizations
  - Appeal and review, **12:43**
  - Determination of medical necessity, **12:14**
  - Reconsiderations, **12:43**
- Penalties for late enrollment, **12:10, 12:11**
- People under age 65 with end stage renal disease
  - Coverage, **12:6**
  - Enrollment, **12:11**
- Percentage of payments to hospitals, **12:19**
- Personal care services exclusion, **12:22, 12:30**
- Persons covered who do not retire at age 65, enrollment for, **12:9**
- Persons not eligible for social security or railroad retirement benefits
  - Enrollment, **12:8**
- Persons who paid into social security or railroad retirement system
  - Coverage, **12:4**
  - Enrollment, **12:7**
- Private duty nurses or attendants, **12:13**
- Private room, **12:13**
- Processing claims, **12:15-12:18**
- Prospective payment system, **12:15, 12:16**
- Psychiatric care, in-patient, **12:36**
- Reconsiderations, **12:42 et seq.**
- Redeterminations, reconsiderations, hearings, and appeals
  - Overview, **12:42**
- Hearings before administrative law judge
  - Overview, **12:45**
  - Attorney's fees, **12:46**
  - District court, judicial review, **12:53**

## INDEX

### **MEDICARE (PART A)—Cont'd**

- Redeterminations, reconsiderations, hearings, and appeals—Cont'd
- Hearings before administrative law judge—Cont'd
- Medicare Appeals Council, **12:52**
- Parties, **12:50**
- Preparing for hearing, **12:47**
- Physician contact, **12:48**
- Reviewing government record, **12:49**
- Medicare administrative contractors (MACs), **12:44**
- Quality improvement organizations (QIO), **12:43**
- Rehabilitative care services, **12:23, 12:24, 12:26, 12:35**
- Renal disease in people under age 65
  - Coverage, **12:6**
  - Enrollment, **12:11**
- Reserve days, lifetime, **12:34**
- Review of decisions. Appeal and reviews, this index
- Skilled nursing care
  - General overview, **12:20**
  - Covered services, **12:21**
  - Custodial care services, **12:22, 12:25**
  - Daily basis requirement, **12:24**
  - Examples, **12:23**
  - Hearings, generally, this subheading
  - Limitations on coverage, **12:25**
  - Maximum stay, **12:25**
  - Personal care services, **12:22**
  - Prerequisites for skilled nursing facility coverage, **12:26**
  - Rehabilitative therapy requirement, **12:23, 12:24**
  - Requirement that treatment be skilled or rehabilitative, **12:23, 12:24**
  - Uncovered services, **12:22**
- Social Security Appeals Council, **12:52**
- Spell of illness or benefit period, **12:35, 12:36**

### **MEDICARE (PART B)**

- General overview, **12:54**
- Co-insurance and deductibles, **12:58, 12:59**
- Deductibles, **12:58, 12:59**
- Enrollment, **12:54-12:57**
- Funding Part B services, **12:2**
- Payment system, **12:77**
- Persons covered, **12:55, 12:74**
- Premium payments, **12:56, 12:57**
- Providers
  - Covered providers, **12:60**
  - Exclusions and limitations, **12:74**
- Redeterminations, reconsiderations, hearings, and appeals, **12:82**
- Services covered, **12:60, 12:74**
- Services not covered, **12:75**
- Voluntary purchasers, **12:56, 12:57**

### **MEDICARE (PART C) [MEDICARE ADVANTAGE PROGRAM]**

- Generally, **12:1, 12:83**
- Coordinated care plans, **12:83, 12:84**
- Funding Part C services, **12:2**
- Health maintenance organizations, **12:84**
- Medical savings account plans, **12:83, 12:87**
- Nursing home stay coverage, **12:26**
- Preferred provider organizations, **12:84**
- Private fee-for-service plans, **12:83, 12:88**
- Provider sponsored organizations, **12:83, 12:85**
- Religious fraternal benefit societies, **12:83, 12:86**
- Special needs plans, **12:83**
- Types of plans
  - Generally, **12:83**
  - Coordinated care plans, **12:84**
  - Medical Savings Account, **12:87**
  - Private fee-for-service plans, **12:88**
  - Provider sponsored organizations, **12:85**
  - Religious fraternal benefit societies, **12:86**

**MEDICARE (PART D)**

- General overview, **12:61 et seq.**
- Calculation of out-of-pocket expenses, **12:69**
- Co-payments, **12:66**
- Donut hole, **12:67, 12:69**
- Enrollment period, **12:71**
- EPIC prescription drug plan, **12:73**
- Excluded drugs, **12:70**
- Low income subsidy, **12:63-12:68**
- Managed care (HMO), **12:67, 12:68**
- Medicare savings account plan, **12:87**
- Noneligibility for subsidy, **12:67**
- 100 percent of Federal poverty level, participants under, **12:64**
- Optometrists, **12:74**
- Out-of-pocket limits, **12:67, 12:69**
- Premiums for those not eligible for subsidy, **12:67**
- Prescription drug coverage, overview, **12:61**
- Prescription drug coverage plans, **12:62**
- Providers
  - Covered providers, **12:74**
  - Limitations on covered providers, **12:74**
- Resource levels, **12:65**
- Veterans, **11:10, 12:72**

**MEDICARE SET ASIDE TRUSTS**

- Worker's compensation claims, medicare (Part D) services, **12:76**

**MEDIGAP INSURANCE**

- General overview, **12:89**
- Open enrollment, **12:90**

**MENTAL HEALTH**

- Capacity, this index
- Health care proxies, substituted judgment for intellectually disabled, **7:28**
- Substituted judgment for intellectually disabled, **7:28**

**MENTAL HYGIENE LAW, ARTICLE 81**

- Guardians and Guardianships, this index

**MENTAL HYGIENE LAW, ARTICLE 17A**

- Guardians and Guardianships, this index

**MILITARY PERSONS**

- Veterans Benefits, this index

**MOBILE HOMES**

- Client questionnaire, **3:7**

**MUNOZ, MARLISE**

- Health care proxy, **7:58**

**NATIONAL ACADEMY OF ELDER LAW ATTORNEYS (NAELA)**

- Generally, **3:32**

**NATIONAL CEMETERY ADMINISTRATION**

- Generally, **11:3**

**NATIONAL CENTER ON ELDER ABUSE**

- Generally, **1:6**

**NATIONAL SENIOR CITIZENS LAW CENTER (NSCLC)**

- Generally, **3:33**

**NAZI PERSECUTION FUNDS**

- Generally, **14:10, 14:22**

**NEGLIGENCE**

- Attorney-in-fact liability, **6:43**
- Nursing homes, actions against, **19:26**

**NEWSLETTERS**

- Marketing device for getting clients, **5:4, 5:5**

**NEW YORK STATE PARTNERSHIP FOR LONG TERM CARE**

- Long Term Care Insurance, this index

**NEW YORK STATUTORY SHORT FORM**

- Powers of attorney, **6:66**

**NOMINEE AND TRUST AGREEMENT**

- Generally, **15:25, 15:32**

## INDEX

### NON-PROFIT CORPORATIONS

Guardianships, Article 17A guardianships, **9:20**

### NOTARIZATION

Electronic, **3:13**

### NOTICE

Guardianships

Order to show cause, **8:8**

Real property, notice of pendency, **8:42**

Transfer of property, **8:34**

Medicaid

Acceptance, **13:54**

DRA transfers, **13:56**

Fair hearings. Medicaid, this index

Notice of pendency, real property, **8:42**

Nursing home care not covered by Medicare, **19:12, 19:39**

Powers of attorney, revocation, **6:50**

### NURSES, AIDES AND PRIVATE DUTY

Medicaid coverage, **19:15**

Medicare coverage, **12:13**

### NURSING HOMES

Generally, **19:1 et seq.**

Abuse, residents, **19:25, 19:26**

Admissions

Generally, **19:4**

From community, **13:61, 19:7**

From hospital, **19:6**

Patient Review Instrument (PRI), **19:5**

Adult homes, distinguished, **19:31**

Agreements, **19:35 et seq.**

Allowance accounts for Medicaid residents, personal incidentals, **19:17**

Alternative options

Generally, **19:29**

Adult homes, **19:31**

Assisted living facilities, **19:30**

Continuing care retirement community, **19:32**

Apprehension and concerns of prospective resident, **19:27**

### NURSING HOMES—Cont'd

Arbitration clauses, **19:37**

Article 81 guardianship placement

Affirmation of placement, form, **8:91**

Order authorizing placement, form, **8:92**

Assisted living facilities, distinguished, **19:30**

Beds

Bed holds, resident hospitalization, **19:20**

Levels of care, **19:3**

Sub-Acute beds or units, **19:3**

Bill of rights, residents, **19:28**

Categories of long term care facilities, **19:3**

Chemical restraints, **19:21**

Coinsurance and deductibles, **12:32**

Community, entering nursing home from, **13:61, 19:7**

Companions, Medicaid residents, **19:15**

Continuing care retirement communities, **19:32-19:35**

Deficit Reduction Act of 2005 changes, **19:33**

Definition of nursing home care, **18:3**

Denial of Medicare coverage, **19:12, 19:39**

Discharges, **19:19**

Expenses, income tax deductions, **20:9**

Financing nursing home care

Generally, **19:8**

Notice that care not covered by Medicare, **19:12**

Private payment guarantees, **19:10**

Security deposits, **19:9**

Third party liability for nursing home bills, **19:11**

Fiscal intermediaries, processing and reviewing claims, **12:42**

Health care proxies, creation and use, **7:19**

Hospitals, entering nursing home from, **19:6**

Levels of care, **19:3**

**NURSING HOMES—Cont'd**

- Listing
  - Continuing Care Retirement Communities, New York State, **19:38**
- Long term care ombudsman program, **19:23**
- Mandatory managed long term care, **19:34**
- Medicaid coverage
  - Generally, **13:1, 13:44, 19:8**
  - Converting from community care, **13:61**
  - Health care provider seeking patient eligibility, **8:7**
  - Income limitations for patient eligibility, **14:2**
  - Intent to return home, **6:45**
  - Personal incidental allowance accounts, **19:17**
  - Security deposit, effect of, **19:9**
- Medicare
  - Coinsurance, deductibles, **12:32, 19:8**
  - Notice, care not covered, **19:12, 19:39**
  - Private payment agreements, effect of, **19:10**
- Medicare Part A coverage, **12:20-12:26, 19:8**
- National Citizen's Coalition for Nursing Home Reform, **1:19**
- Negligence, recovery for, **19:26**
- Notice, care not covered by Medicare, **19:12**
- Nurses aides, Medicaid residents, **19:15**
- Ombudsman, long term care ombudsman program, **19:23**
- Out of state nursing home care, Medicaid eligibility, **19:18**
- Patient review instruments (PRI), contents and requirements, **19:5**
- Personal incidental allowance accounts, Medicaid residents, **19:17**
- Perspective of resident, **19:27**
- Physical restraints, **19:21**
- Physicians, selection, **19:13**

**NURSING HOMES—Cont'd**

- Placement by guardian
  - Affirmation as to, **8:91**
  - Order authorizing, **8:92**
- Prescription drugs, **19:14**
- Private duty nurses, Medicaid residents, **19:15**
- Private payment agreements or guarantees, **19:10**
- Psychiatric problems, affect on admissions, **19:5**
- Regional transfer rates for 1999 (county listing), **14:46**
- Regulation of, **19:2**
- Rehabilitation units, **19:3**
- Residential Health Care Facilities (RHCF)
  - Categories, **19:3**
  - Creation and use of health care proxies in, **7:19**
  - Guardianship proceeding, entitlement to commence, **8:7**
- Residents
  - Abuse, **19:25, 19:26**
  - Alternative housing options, **19:29**
  - Apprehension and concerns of prospective resident, **19:27**
  - Bill of rights, **19:28**
  - Perspective of person moving into nursing home, **19:27**
  - rights, **19:22**
- Residents' council, powers and duties, **19:24**
- Residents' rights, **19:22**
- Restraints, physical and chemical, **19:21**
- Rooms
  - Levels of care, **19:3**
  - Making like home, **19:27**
  - Semi-private and private, **19:16**
  - Sub-acute beds or rooms, **19:3**
- Screens, use to evaluate prospective patient, **19:5**
- Security deposits, **19:9**
- Short term care, **19:3**
- Sub-acute beds or rooms, **19:3**
- Third party liability for nursing home bills, **19:11**
- Transfers, **14:46, 19:19**

## INDEX

### **NURSING HOMES—Cont'd**

Venue selection clauses, **19:36**

### **O'CONNOR (WESTCHESTER COUNTY MEDICAL CENTER)**

Case law analysis, **7:47, 7:50**

### **OFFICE OF PEOPLE WITH DEVELOPMENTAL DISABILITIES (OPWDD)**

Special needs, **2:3**

### **OLDER WORKERS BENEFIT PROTECTION ACT OF 1990**

Age Discrimination in Employment Act, **1:5**

### **OMBUDSMAN**

Nursing homes, long term care ombudsman program, **19:23**

### **OMNIBUS BUDGET RECONCILIATION ACT OF 1993**

Living trusts

Pooled trusts, exempt trusts under, **21:14**

Qualified income trusts, exempt trusts under, **21:14**

Special needs trusts

Generally, **20:55**

Estate taxes, **20:58**

Forms, **21:35**

Gift taxes, **20:57**

Income taxes, **20:56**

Medicaid planning, **21:14**

Variation, form, **21:36**

Medicaid, OBRA 1993, transfers rules prior to, **14:31**

### **OMNIBUS RECONCILIATION ACT OF 1989**

Medicare reasonable charges, **12:81**

### **OMNIBUS RECONCILIATION ACT OF 1990**

Medigap policies, federal standards, **12:89**

### **OPTOMETRISTS**

Medicare coverage, **12:74**

### **ORDER TO SHOW CAUSE**

Guardianship appointment, **8:8-8:10, 8:80**

### **ORGAN DONATION**

Health care proxy, **7:23**

### **ORIGINAL DOCUMENTS**

Health care proxy, **7:8**

Letter confirming who has, **3:30, 3:36**

Multiple originals of document, **3:30**

Powers of attorney, executing several originals, **6:48, 6:50, 6:54**

### **OTHER STATES**

Foreign guardian for person out-of-state, **8:24**

Health care proxy, **7:2, 7:21**

Medicaid, jurisdictional disputes, **13:13**

Nursing home care, Medicaid eligibility, **19:18**

Planning for ill spouse, second stage planning for community spouse, **23:18**

Powers of attorney

Realty out-of-state, **6:16, 6:47**

Validity, **6:53**

Working with out of state elder law attorneys, **3:32**

### **PALLIATIVE CARE**

National Hospice and Palliative Care Organization (NHPCO), generally, **1:19**

Palliative Care Information Act, **7:39**

### **PARENTS**

Conflicts of interest between parents and children, **1:17**

Medicaid, parental liability for medical expenses, **13:26 et seq., 14:12**

Planning for parents of adult child with special needs, **23:9**

Powers of attorney, **6:24**

Social security

Parent of deceased wage earner, **10:18**

Parent of wage earner, **10:10**

**PARENTS—Cont'd**

Special needs child, guidelines for parents, **2:10**

**PARTIES**

Medicare coverage for nursing home care, hearings, **12:50**

**PARTNERSHIP FOR CARING:  
AMERICA'S VOICES FOR  
THE DYING**

Generally, **3:33**

**PATIENT REVIEW INSTRUMENT  
(PRI)**

Contents and requirements, **19:5**

**PATIENT SELF DETERMINATION  
ACT**

Generally, **7:31**

**PEER REVIEW ORGANIZATION  
(PRO)**

Medicare Part A coverage decisions, **12:14, 12:43**

**PENALTIES**

Medicare Part A enrollments, **12:10, 12:11**

Medicare Part B enrollments, **12:55, 12:56**

**PENSIONS**

Retirement and Retirement Plans, this index

Veterans Benefits, this index

**PERSONAL AND FAMILY  
MAINTENANCE**

Powers of attorney, **6:24**

**PERSONAL CARE AIDES**

Home Health Care, this index

Private duty nurses, **12:13, 19:15**

Veteran's benefits

Pension benefits of veteran, **11:19-11:21**

Survivor's benefits, **11:26**

**PERSONAL INJURY  
SETTLEMENTS**

Tort attorneys as valuable contacts for elder law and special needs attorneys, **2:8**

**PERSONAL NEEDS**

Guardians and Guardianships, this index

**PERSONAL PROPERTY**

Client questionnaire, inventory of assets, **3:7**

Guardianships

Property withheld, proceedings to discover, **8:72**

Powers of attorney, enumerated powers, **6:17**

Supplemental security income (SSI) exemption, **10:41**

**PERSONS RESIDING UNDER  
COLOR OF LAW (PRUCOL)**

Medicaid eligibility, **13:15**

**PETITIONS**

Guardianships

Appointment of Article 81 guardian, form, **8:81**

**PETS**

Trusts for benefit of, **21:32**

**PHARMACY BENEFITS**

Veterans, **11:9**

**PHYSICAL RESTRAINTS**

Generally, **19:21**

**PHYSICIANS**

Medicare

Disputes before administrative law judge, attorney consultation with physician, **12:48**

Physician payment reform, relative value units, **12:81**

Nursing homes, selection, **19:13**

**PHYSICIAN'S DESK REFERENCE  
(PDR)**

Advantages in consulting, **13:40**

**PLANS AND PLANNING**

Generally, **1:7, 3:1 et seq., 23:1 et seq.**

Accomplishing planning goals, **1:19**

Autonomy and dignity of client, maintaining, **1:8**

Case Studies, this index

## INDEX

### PLANS AND PLANNING—Cont'd

- Conflicts of interest
  - Between parents and children, **1:18**
  - Between spouses, **1:17**
- Crisis planning, **23:2**
- Dignity and autonomy of client, maintaining, **1:8**
- Estate of § 2,000,000, **23:16**
- Estate of § 3,500,000, **23:8**
- Estate planning, **8:4**
- Estate tax planning, **1:12**
- Health care planning, **1:7, 1:13**
- Ill spouse
  - Generally, **23:10, 23:11**
  - Case Studies, this index
  - Estate of § 2,000,000, **23:16**
  - Home care required, **23:11, 23:12**
  - Nursing home care required, **23:11, 23:15, 23:16**
  - Second stage planning for community spouse, **23:18**
  - Sibling co-occupying residence, **23:17**
- Investment advisors, **3:32**
- Long term care planning, **1:7, 1:13**
- Married couples, both spouses requiring care, **23:19**
- Married couples, healthy
  - Generally, **23:7, 23:8**
  - Disabled child, providing care for, **23:8**
  - Estate of § 3,500,000, **23:8**
  - Special needs adult child, providing care for, **23:9**
- Married couples dual eligibility
  - Generally, **23:7, 23:8**
  - Husband needs home care (wife in good health in community), **23:12**
  - Husband needs nursing home care (wife in good health in community), **23:12**
- Married couples questionnaire, form, **3:37**
- Medicaid, this index
- Parents of adult child with special needs, **23:9**
- Primary goals of the senior citizen, **20:3**

### PLANS AND PLANNING—Cont'd

- Property management, generally, **8:4**
  - Single individuals
    - Generally, **23:2**
    - In good health, **23:3**
    - Requiring nursing home care, **23:5**
  - Special needs planning
    - Generally, **2:2**
    - Caregivers, planning with the, **2:9**
    - History and development of, **2:1**
    - Issues, generally, **2:8**
    - Office of People with Developmental Disabilities (OPWDD), **2:3**
    - Techniques, ramifications, **20:4**
    - Today's market place, **1:22, 1:23**
- ### PODIATRISTS
- Medicare coverage, **12:74**
- ### POOLED TRUSTS
- Generally, **20:55, 21:19**
  - OBRA 1993 exempt trusts, **21:14**
  - Pooled income trusts, **21:20**
- ### POST NUPTIAL AGREEMENTS
- Requesting client to provide, **3:5**
- ### POWERS OF APPOINTMENT
- General power, defined, **6:44**
  - Gifts, tax consequences, **6:44**
- ### POWERS OF ATTORNEY
- Generally, **6:1 et seq.**
  - Acceptance, **6:4**
  - Affidavits
    - Full force and effect of power of attorney, **6:52**
    - "X" signature, **6:9**
  - Attorney-In-Fact, this index
  - Banking transactions, **6:4, 6:19**
  - Benefits of having, **6:3**
  - Bond transactions, **6:18**
  - Business operating transactions, **6:20, 6:38**
  - Buy/sell agreements, **6:38**
  - Chattel transactions, **6:17**
  - Checklist for preparing power of attorney, **6:55**
  - Claims and litigation, **6:23, 6:31**

**POWERS OF ATTORNEY—Cont'd**

Client consultation, **3:21**  
 Commodities transactions, **6:18**  
 Confirmation letter, **3:36**  
 Criminal liability, **6:43**  
 Debts, **6:39**  
 Definitions, **6:2**  
 Delegation of powers, form, **6:62**  
 Delegation of power to third party, **6:31**  
 Designation of guardian, **6:46**  
 Disabled person's estate, **6:35, 6:53**  
 Drafting checklist, **6:55**  
 Durable power of attorney  
     Generally, **6:3, 6:10, 6:53**  
     Attorney's obligation, **6:1**  
     Benefits of, **6:3**  
     Delivery, **6:11**  
     Form, **6:63, 6:65**  
     Overview, **6:10**  
     Springing power of attorney, below  
     Statutory requirements, **6:10**  
 Enumerated powers  
     "All other matters" provision, **6:30**  
     Banking transactions, **6:19**  
     Billing and payment matters, health care, **6:26**  
     Bond, share and commodities transactions, **6:18**  
     Business operating transactions, **6:20**  
     Chattel transactions, **6:17**  
     Claims and litigation, **6:23**  
     Delegation of power to third party, **6:31**  
     Estate transactions, **6:22**  
     Gift transactions, **6:28**  
     Goods transactions, **6:17**  
     Health care billing and payment matters, **6:26**  
     Initialing by principal, **6:3, 6:14**  
     Insurance transactions, **6:21**  
     Military service benefits, **6:25**  
     Overview, **6:15**  
     Personal and family maintenance, **6:24**

**POWERS OF ATTORNEY—Cont'd**

Enumerated powers—Cont'd  
     Personal property transactions, **6:17**  
     Real property transactions, **6:16**  
     Records, reports, and statements, **6:26**  
     Retirement benefit transactions, **6:27**  
     Social security, **6:26**  
     Tax matters, **6:19, 6:26, 6:29**  
     Third party, delegation of powers to, **6:31**  
     Trust matters, **6:17, 6:22**  
 Estate transactions, **6:22, 6:35**  
 Execution of power of attorney  
     Generally, **6:48, 6:50**  
     Mental capacity of principal, **6:9**  
     Principal initialing powers, **6:3, 6:14**  
     Principal signs with an "X," **6:9**  
 Expanded power provisions, form, **6:58**  
 Expanded powers  
     Generally, **6:32**  
     Buy/sell agreements, **6:38**  
     Debts, **6:39**  
     Estate transactions, **6:35**  
     Gift transactions, **6:44**  
     Governmental benefits, **6:40**  
     Health care agents, **6:42**  
     Initialing by principal, **6:3, 6:14**  
     Insurance transactions, **6:34**  
     Loans, **6:39**  
     Medicaid, **6:40, 6:45**  
     Medical records, **6:41**  
     Real estate transactions, **6:33, 6:44**  
     Retention of professionals, **6:43**  
     Safe deposit boxes, **6:37**  
     Social security, **6:40**  
     Trusts, **6:36**  
 Fiduciary obligation, **6:47**  
 Financial institutions, acceptance, **6:4**  
 Form  
     Generally, **6:58**  
     Delegation of powers, **6:62**  
     Durable power of attorney, short form, **6:63**

## INDEX

### POWERS OF ATTORNEY—Cont'd

#### Form—Cont'd

Expanded power provisions, **6:58, 6:58**  
Full force and effect, affidavit of, **6:59**  
Gifts rider, statutory, **6:57**  
New York Statutory short form, **6:66**  
Nondurable general power of attorney, short form, **6:64**  
Revocation of power of attorney, **6:61**  
Short form nondurable general power of attorney, **6:64**  
Statutory gifts rider, **6:57**  
Statutory short form, **6:56**  
“X” signature, affidavit of, **6:60**  
Full force and effect, affidavit of, **6:52, 6:59**  
Gift rider, statutory, **6:57**  
Gift transactions, **6:28, 6:44**  
Goods transactions, **6:17**  
Governmental benefits, **6:40**  
Granting or refusing to grant powers, **6:14**  
Guardianship, **6:3, 6:46**  
Health care agents, **6:3, 6:14, 6:42**  
Health care billing and payment matters, **6:26**  
History, **6:5**  
Hold harmless clauses, **6:51**  
Indemnification provisions, **6:4, 6:51**  
Initialing by principal, **6:14**  
Initializing by principal, **6:3**  
Insurance transactions, **6:21, 6:34**  
Leases, **6:17**  
Limited powers of attorney, **6:6**  
Litigation and claims, **6:23, 6:31**  
Loans, **6:39**  
Medicaid benefits, **6:40, 6:45, 13:48**  
Medical records, **6:41**  
Mental capacity, **6:9**  
Military service benefits, **6:25**  
Notice, revocation, **6:50**  
Original documents, **6:48, 6:50, 6:54**  
Out-of-state transactions, **6:48, 6:53**

### POWERS OF ATTORNEY—Cont'd

Overview, **6:1, 6:10, 6:11, 6:13, 6:15, 6:32**  
Party under disability, estate transactions, **6:35**  
Personal and family maintenance, **6:24**  
Personal property transactions, **6:17**  
Practical considerations, **6:53**  
Precautions, **6:3**  
Real estate transactions, **6:16, 6:33, 6:44, 6:48**  
Recording in county clerk's office, **6:48**  
Records and reports, **6:26, 6:41**  
Refusal to grant, **6:14**  
Retention of professionals, **6:43**  
Retirement benefit transactions, **6:27**  
Revocation of power of attorney  
Generally, **6:49**  
Form, **6:61**  
Multiple originals, **6:55**  
Notice, **6:50**  
Revocation of power of attorney, form, **6:61**  
Safe deposit boxes, **6:19, 6:37**  
Self-dealing, **6:47**  
Signatures  
Checks, **6:19**  
Out-of-state realty transactions, **6:16**  
Powers, initialing by principal, **6:3, 6:14**  
Principal signs with an “X,” **6:9**  
Social security transactions, **6:26, 6:40**  
Spousal status, change of, **6:53**  
Springing power of attorney  
Generally, **6:10, 6:11**  
Activation, **6:11**  
Alternatives, **6:11**  
Defined, **6:11**  
Effective date, **6:11**  
Overview, **6:11**  
Precautions, **6:11**  
Purpose, **6:11**  
Triggering events, **6:11**

**POWERS OF ATTORNEY—Cont'd**

- Statutory short form, **6:56**
  - Generally, **6:7**
  - Effective date, **6:11**
  - Enumerated powers, **6:15**
  - Execution, **6:48**
  - Modified statutory short form, **6:8**
  - Outdated form, **6:57**
- Stock transactions, **6:18**
- Storage and safekeeping, **3:30, 6:17, 6:55**
- Tax matters, **6:17, 6:26, 6:29**
- Termination, **6:9, 6:53**
- Third party, delegation of powers to, **6:31**
- Trusts, **6:17, 6:22, 6:36**
- Validity, **6:2, 6:52**
- “X” signature, affidavit of, **6:60**

**PRACTICE OF ELDER LAW**

- Generally, **1:1 et seq.**
- Abuse of elders
  - generally, **1:6**
- Affordable Care Act
  - Provisions affecting older adults and people with disabilities, **1:15**
- Agreement, joint representation agreement, form, **1:20**
- Attorney-Client Relationship, this index
- Attorneys, elder law attorneys
  - Generally, **1:9**
  - Conflicts of interest, below
  - Ethics, **1:16**
  - Representation agreement, **1:20, 15:29**
- Autonomy of client, **1:8**
- Certification and regulation of attorney, **1:9**
- Changing environment and challenges ahead, **5:11-5:13**
- Client, elder law
  - Generally, **1:2**
  - Autonomy and dignity of client, maintaining, **1:8**
  - Joint representation agreement, form, **1:20**
  - Perspective of elderly client, **1:7**

**PRACTICE OF ELDER LAW—Cont'd**

- Client, elder law—Cont'd
  - Today’s market place, seniors in, **1:23**
  - Understanding the aging process, **1:4**
  - Who are the elderly, **1:3**
  - Why we should help elderly protect assets, **1:3**
- Conflicts of interest
  - Between parents and children, **1:18**
  - Between spouses, **1:17**
  - Joint representation agreement, form, **1:20**
- Defined, **1:23**
- Ethics
  - Attorneys, elder law, **1:16**
  - Conflicts of interest between parents and children, **1:18**
  - Conflicts of interest between spouses, **1:17**
  - Joint representation agreement, form, **1:20**
- Future of elder law, key trends, **1:21**
- History and development of elder law, **1:1**
- Joint representation agreement
  - Ethical considerations in medicaid planning, **15:29**
  - Form, **1:20**
- Key trends as to future of elder law, **1:21**
- Medicaid 2026 update, **3:40**
- Perspective of client, **1:7**
- Planning, elder law
  - Generally, **1:7**
  - Accomplishing planning goals, **1:19**
  - Client’s dignity and autonomy, maintaining, **1:8**
  - Client’s perspective, **1:7**
  - Dignity and autonomy of client, maintaining, **1:8**
  - Estate planning, **1:10**
  - Estate tax planning, **1:12**
  - Long term care planning, **1:7, 1:13**
  - Medicaid planning, **1:14**

## INDEX

### **PRACTICE OF ELDER LAW**

#### **—Cont'd**

- Planning, elder law—Cont'd
  - Special needs planning, development of, **2:1**
  - Tools of elder law attorney, **1:19**
- Planning, estate
  - Generally, **1:10**
  - Taxes, estate tax planning, **1:12**
- Resources, **1:24, 3:32**
- Today's market place, **1:22, 1:23**
- Tools of elder law attorney, **1:19**
- Understanding the aging process, **1:4**
- Who are the elderly, **1:3**
- Why we should help elderly protect assets, **1:3**

### **PRACTICE OF SPECIAL NEEDS**

- Generally, **2:1-2:10**
- Academy of Special Needs Planners, **3:32**
- Advance directives, using, **2:8**
- Caregivers, planning with the, **2:9**
- Changing environment and challenges ahead, **5:11-5:13**
- Clients, meeting with, **2:2, 2:8**
- Clients, special needs, **2:6**
- Early intervention program, **2:5**
- History and development of special needs planning, **2:1**
- Individuals with Disabilities Education Improvement Act, **2:4**
- Office of People with Developmental Disabilities (OPWDD), **2:3**
- Parents of special needs child, guidelines for, **2:10**
- Planning, special needs
  - Caregivers, planning with the, **2:9**
  - History and development of, **2:1**
  - Issues, generally, **2:8**
  - Special education (IDEA), **2:4**
  - Special needs, generally, **2:2**
  - Special needs trusts, **2:8**
  - Tools of special needs attorney, **2:8**

### **PREFERRED PROVIDER ORGANIZATIONS (PPO)**

- Medicare, this index

### **PRIVATE DUTY NURSES**

- Medicaid coverage, **19:15**
- Medicare coverage, **12:13**

### **PRIVILEGED INFORMATION**

- Confidential or Privileged Information, this index

### **PROBATE**

- See also Estates, this index
- Married couple with estate of § 3,500,000
  - Planning approach to avoid probate, **23:8**

### **PROMISSORY NOTE**

- Medicaid, **14:1, 15:34**

### **PROSPECTIVE PAYMENT SYSTEM**

- Medicare part A, **12:15, 12:16**

### **PROVIDER SPONSORED ORGANIZATIONS (PSO)**

- Medicare, this index

### **PROVIDING SERVICES IN ELDER LAW AND SPECIAL NEEDS PRACTICE**

- Attorney-Client Relationship, this index

### **PRUCOL**

- Persons Residing Under Color of Law (PRUCOL), this index

### **PSYCHIATRIC CARE**

- Medicare part A benefits period, inpatient care, **12:36**

### **PUBLIC ASSISTANCE**

- Medicaid eligibility requirements, **13:19**

### **QUALIFIED PERSONAL RESIDENCE TRUSTS (QPRTS)**

- Irrevocable living trusts, **20:66**
- Worksheet, form, **20:71**

### **QUALIFIED TERMINABLE INTEREST PROPERTY TRUST (QTIP)**

- Gift taxes, **20:25**

**QUALIFIED TERMINABLE  
INTEREST PROPERTY  
TRUST (QTIP)—Cont'd**

Wills, supplemental needs as part of will containing unified credit shelter trust and QTIP trust if beneficiary resides in nursing facility, sample language, **22:35**

**QUESTIONNAIRE TO CLIENT**

Attorney-Client Relationship, this index

**QUINLAN, MATTER OF**

Case law analysis, **7:51**

**REAL PROPERTY**

Client questionnaire

Inventory of assets, **3:7**

Liabilities, **3:9**

Guardianships

Discovery of withheld property, **8:72**

Notice of pendency, **8:42**

Notice of pendency, **8:42**

Outright gift, **15:7, 15:31**

Powers of attorney, **6:16, 6:33, 6:44, 6:48**

Transfers, **3:7, 6:44, 15:7, 15:31**

**RECONSIDERATION**

See also Appeals and Reviews, this index

Medicaid fair hearings, **16:10**

**RECORDATION**

Confirmation letter, form, **3:36**

Power of attorney, recording in county clerk's office, **6:48**

**RECORDS AND REPORTS**

Attorney-client relationship, post consultation analysis report, **3:24**

Guardians and Guardianships, this index

Health care proxy

Agent's right to receive information and records, **7:15**

Medical provider's duty to place in patient's records, **7:16**

Income tax reports (1099), **13:49**

**RECORDS AND REPORTS—Cont'd**

Managing and developing the successful practice, monthly reports, **4:2, 4:5, 4:8, 5:2, 5:9**

Medicaid, disability determination report, **13:17, 13:66**

Medicaid fair hearings, **16:29, 16:31, 16:32, 16:34**

Medical records

Powers of attorney, **6:41**

Medicare coverage disputes before administrative law judge, attorney's review of government's record, **12:49**

Powers of attorney

Enumerated powers, **6:26**

Expanded powers, medical records, **6:41**

Sealing of records, guardianship, **8:16**

**REFERRAL SOURCES**

Attorneys, marketing to, **5:10**

**REGIONAL TRANSFER RATES**

Medicaid income, resources, transfers and spousal impoverishment, **14:46**

**RELATIVES**

Friends and Relatives, this index

**RELEASE OF MEDICAL  
INFORMATION**

HIPAA compliant authorization for release of medical information and confidential HIV related information, form, **7:66**

**RELIGIOUS BELIEFS**

Health care provider's refusal to comply with health care agent's decision, grounds, **7:16**

Orthodox Jews, health care proxies for, **7:26, 7:63**

**RELIGIOUS FRATERNAL  
BENEFIT SOCIETIES**

Medicare Part C provider, overview, **12:83, 12:86**

## INDEX

### **RELOCATION RESTITUTION (JAPANESE AMERICANS)**

Medicaid, exempt resource, **14:22, 14:23**

### **REMOVAL**

Medicaid fair hearing officers, **16:30**

### **RENAL DISEASE**

End Stage Renal Disease in People Under Age 65, this index

### **RENUNCIATION**

Wills, **22:27, 22:28, 22:48**

### **REPARATION PAYMENTS (GERMAN AND AUSTRIAN)**

Generally, **14:10, 14:22**

### **REPORT**

Records and Reports, this index

### **REPRESENTATIVE**

Medicare, appointment of representative, form, **12:101**

### **RESIDENCE**

Aliens, **13:15**

Client questionnaire, **3:7**

Continuing care retirement communities, **19:32-19:35**

Determining and defining, **13:10, 13:16**

Homesteads, this index

Income tax consequences from sale of, **20:15**

Institutionalized person's, **13:10**

Medicaid requirement, **13:10-13:14, 13:46**

Memorandum regarding planning for residence in context of medicaid and taxes, **3:37**

Memorandum regarding transfer of residence with retained life estate or to a trust, **15:31**

Permanent absent status, **14:21**

Planning approach to protect ill spouse

Requiring home care, **23:12**

Requiring home care and possibly nursing home care, **23:11**

### **RESIDENCE—Cont'd**

Planning approach to protect ill spouse—Cont'd

Requiring nursing home care, **23:12, 23:15**

Residence co-occupied with sibling, **23:17**

Planning approach to protect single individual

Requiring home care, **23:4**

Planning for the residence, tax considerations, **3:37, 15:31, 20:38-20:41**

Repairs and renovations, **3:7**

Veteran's pension eligibility, **11:14**

### **RESIDENTIAL HEALTH CARE FACILITIES**

Submission of request from, **13:70**

### **RESIDENTIAL HEALTH CARE FACILITIES (RHCF)**

Adult homes, **19:31**

Assisted living facilities, **19:30**

Continuing care retirement communities, **19:32**

Creation and use of health care proxies in, **7:19**

Guardianship proceeding, entitlement to commence, **8:7**

Nursing Homes, this index

### **RESOURCES**

Academy of Special Needs Planners, **3:32**

Elder abuse, **1:6**

EPIC prescription drug plan, **12:73**

Medicare Rights Center, **3:33**

National Academy of Elder Law Attorneys (NAELA), **3:32**

National Senior Citizen's Law Center (NSCLC), **3:33**

Partnership for Caring: America's Voices for the Dying, **3:33**

Veterans Benefits, this index

Working with legal and aging organizations, **3:33**

### **RESPITE CARE**

Defined, **18:3**

**RETIREMENT AND**

**RETIREMENT PLANS**

- Generally, **3:7**
- Client questionnaire, **3:7**
- Continuing Care Retirement Communities, this index
- Excise taxes on early withdrawal, **20:12**
- Individual Retirement Accounts (IRAs), **14:14, 15:5, 20:12**
- Medicaid resource, **14:14, 14:15**
- Medicare Part A coverage, **12:4-12:11**
- Power of attorney, benefits transactions, **6:27**
- Social Security, this index
- Transfers of retirement accounts, **15:5**
- Veteran's pensions. Veterans benefits, this index

**RETROACTIVITY**

- Medicaid, time limited exempt resources, **14:23**
- Medicaid eligibility, **13:55**
- DRA transfers, **13:56**

**REVERSE MORTGAGE PAYMENTS**

- Medicaid, exempt income, **14:10, 14:22**

**REVOCAATION**

- Health care proxies, **7:10**
- Living trusts, this index
- Living wills, **7:38**
- Power of attorney, **6:49-6:50, 6:55**

**RIGHT OF ELECTION**

- Generally, **17:7**
- Elective share, **22:4**
- Waiver, **22:26**

**RIGHT TO DIE**

- Generally, **3:33**

**ROOMERS, BORDERS, AND LODGERS**

- Medicaid eligibility, income standard, **14:6**

**SAFE DEPOSIT BOXES**

- Client questionnaire, **3:7**
- Powers of attorney
  - Enumerated powers, **6:19**
  - Expanded powers, **6:37**

**SAME SEX MARRIAGES**

- Medicaid, legally responsible relatives, **13:24**

**SCHIAVO, TERRI**

- Health care proxy, **7:56**

**SECURITY DEPOSIT**

- Nursing home care, **19:9**

**SELF-DEALING**

- Attorney-in-fact, **6:47**

**SELF-EMPLOYMENT**

- Medicaid eligibility, income standard, **14:6**

**SEMINARS**

- Marketing device for getting clients, **5:4, 5:5**

**SENIOR CITIZENS**

- Medicare, this index
- Website for resources on nursing homes, continuing care retirement communities, assisted living and other housing and long term care facilities, **1:19**

**SERVICE OF PROCESS**

- Guardianships
  - Generally, **8:7**
  - Annual report, **8:58**
  - Designation of clerk to receive process, **8:45**
  - Petition and order to show cause, **8:8**

**SETTLEMENT**

- Health care proxy disputes, **7:20**
- Medicare Set Aside Trusts, worker's compensation claims, **12:76**

**SKILLED NURSING FACILITIES CARE**

- Medicare part A
  - Generally, **12:20**

## INDEX

### SKILLED NURSING FACILITIES

#### CARE—Cont'd

- Medicare part A—Cont'd
  - Benefits period, **12:33**
  - Long term nursing home care
    - Limited coverage, prerequisites, **12:26**
    - Services not covered, **12:25**
  - Medicare administrative contractors (MACs), **12:44**
  - Services covered, **12:21**

### SOCIAL SECURITY

- Generally, **10:1 et seq.**
- Alien eligibility, **10:22**
- Appeals council, Medicare coverage disputes, **12:52, 12:53**
- Blindness, disability based on, **10:33**
- Children
  - Deceased wage earner, child of.
    - Deceased wage earner, below
  - Disabled adult child, **10:13**
  - Grandchild, **10:15, 10:21**
  - Parent of wage earner when there are dependent children, **10:10**
  - Step child, **10:14, 10:20**
  - Wage earner, of, **10:12**
- Compassionate allowances, **10:37**
- Deceased wage earner
  - Child of, surviving
    - Generally, **10:19**
    - Grandchild, **10:21**
    - Step child, **10:20**
  - Divorced surviving spouse, **10:17**
  - Grandchild, surviving, **10:21**
  - Parent of, **10:18**
  - Step child, surviving, **10:20**
  - Surviving spouse, **10:16, 10:17**
  - Survivor benefits, **10:16-10:21**
- Dependents, **10:9, 10:10**
- Direct deposit accounts, problems with, **10:55**
- Direct express debit accounts, receipt of benefits by, **10:54, 10:55**
- Disability benefits (SSDI)
  - Generally, **10:23 et seq.**
  - Beneficiaries, Medicaid for disabled, **10:35**

### SOCIAL SECURITY—Cont'd

- Disability benefits (SSDI)—Cont'd
  - Blindness, disability based on, **10:33**
  - Compassionate allowances, **10:37**
  - Date last insured, **10:31, 10:32**
  - Disability defined, **10:25**
  - Establishing disability, **10:26**
  - Evaluation, sequential, **10:27**
  - Five month waiting period for benefits, **10:36**
  - Insured status, **10:30, 10:31, 10:34**
  - Medicare coverage, **10:32, 10:35**
  - Nonexertional activity, limits on, **10:29**
  - Physical exertion, limits based on, **10:28**
  - Primary insurance amount, **10:34**
  - Reduction in SSDI benefits, **10:24**
  - Sequential evaluation, **10:27**
  - Trial work period, **10:32**
- Disabled persons
  - SSDI. Disability benefits (SSDI), above
  - SSI. Supplemental Security Income (SSI), this index
- Divorced spouse, **10:11, 10:17**
- Early social security retirement benefits, earnings limitations for individuals receiving, **10:6**
- Earning requirements
  - Credits, for, **10:4**
  - Early retirement benefits to those age 62-65 limitations, **10:6**
- Limitations
  - Early retirement benefits to those age 62-65, **10:6**
  - Repeal of earning limitations for individual over 66 years of age, **10:7**
- Necessary credits, **10:3**
- Five month waiting period for disability benefits, **10:36**
- Grandchild, **10:15**
- Master Card debit accounts, receipt of benefits by, **10:54, 10:55**
- Paper checks, problems with, **10:55**
- Parent of deceased wage earner, **10:18**

**SOCIAL SECURITY—Cont'd**

- Parent of wage earner, **10:10**
- Payment methods, **10:54, 10:55**
- Powers of attorney, expanded powers, **6:26, 6:40**
- Pre-2000, earnings limitations for individuals receiving benefits, **10:6**
- Repeal of earning limitations for individual over 66 years of age, **10:7**
- Retirement age requirements, **10:2, 10:5**
- 65 years of age, retirement after, **10:5**
- Spouse
  - Deceased wage earner, survivors benefits/spouse of, **10:16**
  - Divorced spouse, **10:11**
  - Divorced surviving spouse, **10:17**
  - Surviving spouse
    - Generally, **10:9**
    - Deceased wage earner, survivors benefits/spouse of, **10:16**
    - Divorced surviving spouse, **10:17**
- SSDI. Disability benefits (SSDI), above
- SSI. Supplemental Security Income (SSI), this index
- Step child, **10:14**
- Supplemental Security Income (SSI), this index
- Surviving spouse. Spouse, above
- Survivor benefits. Deceased wage earner, above
- Trial work period, **10:32**
- Unearned income, **10:8**

**SOCIAL SECURITY DISABILITY BENEFITS**

- Social Security, this index

**SOCIAL SECURITY WAIVER**

- Managed care programs, **13:5**

**SOCIAL SERVICES, LOCAL DEPARTMENTS OF**

- Commencing guardianship proceedings, **8:7**

**SOCIAL WORKERS**

- Consulting with, **3:32**

**SOLE BENEFIT TRUSTS**

- Generally, **14:37, 21:21**
- Form, **21:39**

**SPECIAL NEEDS**

- Academy of Special Needs Planners, generally, **3:32**
- Advance directives, **2:8**
- Article 17 guardians. Guardians and Guardianships, this index
- Community organizations, **2:1**
- Early Intervention Program, **2:5**
- End of life decision making (cases)
  - Cruzan v. Missouri Department of Health, **7:52**
  - Matter of Quinlan, **7:51**
  - Schiavo, Terri, **7:56**
- Guardianship, Article 17. Guardians and Guardianships, this index
- Health care proxy
  - End of life decision making (cases), above
  - Substituted judgment for intellectually disabled and developmentally disabled (health care proxy), **7:28**
- Income tax
  - Credit for the disabled, **20:10**
  - Medical expenses deduction, **20:9**
- Individual Education Program, **2:4**
- Individuals with Disabilities Education Improvement Act, **2:4**
- Medicaid
  - Generally, **13:1**
  - Accident liens, **17:16-17:20**
  - Age and related eligibility requirements, **13:16-13:20**
  - Buy in program, **13:6**
  - Exempt transfers, **14:36, 14:37**
  - Exempt trusts, **21:14**
  - Legally responsible relatives and parental refusal, **13:23 et seq.**
  - Recovery of Medicaid properly paid, **17:4**
  - State's medical report for determination of disability, form, **13:66**

## INDEX

### **SPECIAL NEEDS—Cont'd**

- Medicare (Part A) for disabled persons under age 65
  - Coverage, **12:5, 12:6**
  - Enrollment, **12:11**
- Medicare (Part C), special needs plan, **12:83**
- Office of People with Developmental Disabilities (OPWDD), **2:3**
- Parents of special needs child, guidelines for, **2:10**
- Planning for parents of adult child with special needs, **23:9**
- Planning for parents of child with special needs, **2:1-2:10**
- Practice of special needs
  - Generally, **2:1-2:10**
  - Clients, special needs, **2:6**
  - Early Intervention Program, **2:5**
  - History and development of special needs planning, **2:1**
  - Parents of special needs child, guidelines for, **2:10**
  - Planning, special needs
    - Generally, **2:1**
    - Caregivers, planning with the, **2:9**
    - History and development of, **2:1**
    - Issues, generally, **2:8**
    - Special education (IDEA), **2:4**
    - Special needs, generally, **2:2**
- Social Security Disability Income (SSDI), **10:23-10:36**
- SSDI (Social Security Disability Income), **10:23-10:36**
- SSI (Supplemental Security Income), **10:38-10:54**
- Substituted judgment for intellectually disabled and developmentally disabled (health care proxy), **7:28**
- Supplemental Security Income (SSI), **10:38-10:55**
- Trusts. Special Needs Trust, this index
- Will considerations
  - Generally, **22:2, 22:7**
  - Age of beneficiary, **22:9**
  - Behavioral problems, **22:9**

### **SPECIAL NEEDS—Cont'd**

- Will considerations—Cont'd
  - Health care, **22:8**
  - Spendthrift provisions, **22:10**
  - Trust provisions in will. Special Needs Trust, this index
- SPECIAL NEEDS TRUST**
  - Generally, **2:8, 20:55, 21:14**
  - Generally, **21:15-21:17**
  - Article 17A guardianships, **2:8, 9:9**
    - Guardians and guardianships, **9:15**
  - Estate tax treatment, **20:58**
  - Forms, **21:35**
  - Gift tax treatment, **20:57**
  - Income tax treatment, **20:56**
  - Medicaid planning, **21:14**
  - OBRA exempt trust, **21:14**
  - Pooled trusts, **21:14**
  - Settlement payments, tax treatment, **20:56**
  - Sole benefit trust
    - Generally, **14:37, 21:21**
    - Form, **21:39**
  - Tax treatment, **20:55-20:58**
  - Third Party Supplemental Needs Trust
    - Generally, **20:59, 21:22**
    - Sample form, **21:37**
    - Will provisions, **22:33-22:36**
- Wills containing
  - Supplemental needs trust for surviving spouse
    - Form, **22:33**
    - Sample memorandum summarizing, **22:34**
  - Testamentary QTIP trust for spouse funded with supplemental needs from principal, form, **22:32**
  - Unified credit shelter trust and QTIP trust if beneficiary resides in nursing facility, sample language as part of will containing, **22:35**
  - Third party special needs trust, sample language for beneficiaries with severe and

**SPECIAL NEEDS TRUST—Cont'd**

Wills containing—Cont'd  
chronic or persistent disability, **22:36**

**SPECIAL NEEDS TRUSTS**

Administration, **21:16**  
Funding and Medicaid liens, **21:17**

**SPOUSES**

Conflicts of interest between spouses, **1:17**  
Divorce or separation  
Health care proxy, effect on, **7:7**  
Social security, **10:11, 10:17**  
Medicaid issues regarding transfers.  
Medicaid, this index  
Powers of attorney  
Change of status, effect of, **6:53**  
Personal and family maintenance, **6:24**  
Questionnaire, estate and long term care, **3:33, 3:37**  
Same sex marriages, Medicaid legally responsible relatives, **13:24**  
Veterans Benefits, this index  
Wills, this index

**SPRINGING POWER OF ATTORNEY**

Powers of Attorney, **6:11**

**SSI**

Supplemental Security Income (SSI), this index

**STARE DECISIS**

Medicaid fair hearings, **16:35**

**STATEMENTS**

Powers of attorney, enumerated powers, **6:26**

**STOCKS**

Attorney-in-fact powers, **6:18**  
Inventory of assets, client questionnaire, **3:7**  
Outright gifts, **15:4, 15:8**

**STORAGE**

Client documents, **3:30, 3:36**  
Power of attorney, **3:30, 6:17, 6:55**

**STORAR, MATTER OF**

Case law analysis, **7:49**

**SUBSTITUTED JUDGMENT**

Intellectually disabled, health care proxy, **7:28**

**SUPPLEMENTAL MEDICARE INSURANCE**

Medigap insurance, generally, **12:89, 12:90**  
Part B. Medicare (Part B), this index

**SUPPLEMENTAL NEEDS TRUSTS**

Generally, **2:8, 20:48, 21:22**  
Married couples with estates of § 3,500,000, planning considerations, **23:8**  
Medicaid planning, **21:9**  
Special needs adult child, planning approach to provide for, **23:9**  
Third party supplemental needs trust, **20:59, 21:22, 21:37**  
Wills containing supplemental needs trust for surviving spouse  
Form, **22:33**  
Sample memorandum summarizing, **22:34**  
Testamentary QTIP trust for spouse funded with supplemental needs from principal, form, **22:32**  
Unified credit shelter trust and QTIP trust if beneficiary resides in nursing facility, sample language  
as part of will containing, **22:35**  
Wills containing third party special needs trust, sample language for beneficiaries with severe and chronic or persistent disability, **22:36**

**SUPPLEMENTAL SECURITY INCOME (SSI)**

Generally, **10:38 et seq.**  
Aliens, **10:22, 10:53**  
Appeals, **10:52**  
Application process, **10:44**  
Benefit levels  
Congregate care rates, **10:48**

## INDEX

### **SUPPLEMENTAL SECURITY INCOME (SSI)—Cont'd**

Benefit levels—Cont'd  
Monthly, **10:47**  
Transferred assets, **10:49**  
Veteran's pension, effect on, **11:20**  
Children, eligibility, **10:53**  
Classification for eligibility purposes,  
**10:39**  
Congregate care rates, **10:48**  
Continuing disability reviews  
PASS Program, **10:45**  
Ticket to Work Program, **10:45**  
Direct express debit cards, **10:54,**  
**10:55**  
Eligibility  
Generally, **10:39 et seq.**  
Aliens, **10:22**  
Children, **10:53**  
Classification, **10:39**  
Consulting with National Senior  
Citizens Law Center, **3:33**  
Exempt resources, **10:41**  
Income requirements, below  
Medicaid, **13:20**  
Resources, **10:40, 10:41**  
Exempt resources, **10:41**  
Expedited reinstatement, **10:45**  
Income requirements  
Generally, **10:42 et seq.**  
Countable income, **10:43**  
Non-exempt income, **10:43**  
Veteran's pension, effect on, **11:20**  
Malpractice and personal injury  
settlements, **2:8**  
Medicaid, this index  
Monthly benefit levels, **10:47**  
National Senior Citizens Law Center,  
consulting with, **3:33**  
PASS Program (Plan for Achieving  
Self Support), **10:45**  
Payment methods, **10:54, 10:55**  
Reconsideration, **10:52**  
Removal from program, **10:51, 10:52**  
Resources, **3:33, 10:40, 10:41**  
Special needs trust, **21:15**  
Ticket to Work Program, **10:46**  
Transfer of assets, **10:49**

### **SUPPLEMENTAL SECURITY INCOME (SSI)—Cont'd**

Trial work period  
PASS Program, **10:45**  
Ticket to Work Program, **10:46**  
Veteran's pension, calculating, **11:20**

### **SURVIVOR BENEFITS**

Medicaid lien limitations, surviving  
spouses, **17:6**  
Social security, **10:16-10:21**  
Veterans Benefits, this index  
Wills containing special needs trust  
for surviving spouse, **22:32-**  
**22:35**

### **TABLES**

See also Charts; Checklists, this  
index  
Life estate and remainder interest  
table, **14:45**  
Regional nursing home transfer rates  
for 1999 (county listing), **14:46**

### **TAXATION**

Generally, **20:1 et seq.**  
A/B trusts worksheet, form, **20:69**  
Applicable exclusion amount, **20:20**  
Bypass/Marital trusts, **20:60-20:64,**  
**21:29**  
Capital gains, assets sale, **20:17**  
Credit  
Shelter, planning explanation,  
**20:72**  
State death taxes schedule, **20:78**  
Estate Taxes, this index  
Excise taxes, retirement plan early  
withdrawal, **20:12**  
FICA funding for Medicare Part A,  
**12:2**  
Generation skipping transfers, **20:68**  
Gift Taxes, this index  
Goals of senior client, **20:3, 20:72**  
Grantor trusts, income taxation,  
**20:50**  
GRATs  
Suggested language regarding,  
**20:74**  
Worksheet, form, **20:70**  
Income Taxes, this index

**TAXATION—Cont'd**

- Irrevocable income only trust, **20:54**
- Irrevocable life insurance trusts,  
**20:72, 20:73, 21:31**
- Irrevocable living trusts, **20:48-20:53**
- Joint revocable living trusts, **20:46**
- Letter explaining credit shelter and  
irrevocable life insurance trust  
planning, **20:72**
- Long term care insurance benefits,  
**20:16**
- Medicaid asset protection trust,  
**21:11, 21:33**
- Medicaid Asset Protection Trust,  
**20:54**
- Medicaid asset protection trust,  
transfer to, **20:40**
- Net investment tax, **20:17**
- Overview, **20:1-20:6**
- Powers of attorney, tax matters, **6:19,**  
**6:26, 6:29**
- QPRTs
  - Suggested language regarding,  
**20:75**
  - Worksheet, form, **20:71**
- Residence, planning considerations
  - Generally, **20:38**
  - Comparison of residential  
transfers, **20:41**
  - Medicaid asset protection trust,  
transfer to, **20:40**
  - Memorandum regarding planning  
in context for medicaid and  
taxes, **3:37**
  - Memorandum regarding transfer to  
trust or with retained life  
estate, **15:31**
  - Outright transfer, **20:39**
- Revocable living trusts, using, **20:42-**  
**20:47, 21:25**
- Schedules
  - Credit for state death taxes, **20:78**
  - Federal and state exclusion  
amount, **20:77**
  - Federal estate tax, **20:76**
- Special needs trusts under OBRA  
1993, **20:55-20:58**
- Third-party trusts, **20:59**

**TAXATION—Cont'd**

- Wealthy senior, planning for, **20:65-**  
**20:68**

**TAX ATTORNEY**

- Consultation with or referral to, **3:32**

**TEAM MEETINGS**

- Managing and developing the suc-  
cessful practice, **4:11**

**TEMPORARY RESTRAINING  
ORDERS**

- Guardianships, provisional remedies,  
**8:41**

**TERMINATION**

- Power of attorney, **6:9**

**THIRD PARTY**

- Nursing home bills, third party  
liability for, **19:11**
- Powers of attorney
  - Delegation of power to third party,  
**6:31**
  - Indemnification and hold harmless,  
**6:51**
- Supplemental needs trust, **2:8, 20:59,**  
**21:22, 21:37**
- Taxation, third-party trusts, **20:59**

**TIME**

- Managing and developing the suc-  
cessful practice, timekeeping,  
**4:2, 4:5, 4:6, 5:2**
- Medicaid fair hearings
  - Appeal of decision, **16:32, 16:36**
  - Notice of hearing, **16:3-16:8,**  
**16:18, 16:32**
  - Requesting hearing, **16:11-16:14**
  - Scheduling hearing, **16:19-16:21**

**TIME SHARES**

- Client questionnaire, **3:7**

**TISSUE DONATION**

- Health care proxy, **7:23**

**TRANSFERS**

- Bank accounts, **15:4**
- Life insurance policies, **15:6**
- Medicaid, transfer of assets.
  - Medicaid, this index

## INDEX

### TRANSFERS—Cont'd

- Multiple transfers, **14:1, 14:34, 15:28**
- Prior transfers
  - Client consultation, **3:20**
  - Client questionnaire, **3:8**
- Real property, **3:7, 6:44, 15:7, 15:31**
- Retirement accounts, **15:5**
- Stocks, **15:4**

### TRUSTS AND TRUSTEES

- A/B trusts worksheet, form, **20:69**
- Bank accounts, **15:8**
- Burial trusts, Medicaid resource standards exemption, **14:17**
- Client consultation, **3:22**
- Drafting checklist, **3:27**
- Form letter to senior explaining credit shelter and irrevocable life insurance trust planning, **20:72**
- GRATs
  - Suggested language regarding, **20:74**
  - Worksheet, form, **20:70**
- Inter vivos trusts
  - See Living Trusts, this index
- Investment advisors, consultation with, **3:32**
- Irrevocable life insurance trusts
  - Generally, **20:67, 21:31**
  - Suggested language regarding, **20:73**
- Irrevocable trust fund with funeral director
  - Medicaid resource standards, exempt resources, **14:17**
- Living Trusts, this index
- Medicare Set Aside Trusts, worker's compensation claims, **12:76**
- Memorandum regarding transfer of residence with retained life estate or to a trust, **15:31**
- Nominee and trust agreement, form, **15:32**
- Pet trusts, **21:32**
- Pooled trusts
  - Living Trusts, this index
- Powers and duties, Prudent Investor Act, **22:15**

### TRUSTS AND TRUSTEES—Cont'd

- Powers of attorney
  - Enumerated powers, **6:17, 6:22**
  - Expanded powers, **6:36**
- QPRTs
  - Suggested language regarding, **20:75**
  - Worksheet, form, **20:71**
- Revocable Living Trusts, generally.
  - Living Trusts, this index
- Sole benefit trusts
  - Generally, **14:37, 21:21**
  - Form, **21:39**
- Special Needs Trust, this index
- Supplemental Needs Trusts, this index
- Wills, this index

### UNDUE HARDSHIP

- Medicaid concept, **14:39, 17:14**

### UNITED STATES DISTRICT COURT

- Medicare coverage for nursing home care
  - Appeals from Social security appeals council, **12:53**

### VENUE

- Guardianship proceedings, **8:6**
- Medicaid fair hearings, **16:22**
- Nursing home agreements, **19:36**

### VETERANS BENEFITS

- Generally, **11:1-11:37**
- Agent orange exposure
  - Agent Orange Settlement Funds, **14:10, 14:22**
  - Medical conditions presumptively service-connected, **11:4**
- Aid and attendance
  - Generally, **11:19**
  - Assisted living facilities aid and attendance pension benefits, **11:21**
  - Income disregards and deductions, **11:20**
- American Legion, **11:35**
- Application process, **11:30**
- Assisted living expenses, **11:19-11:21**

**VETERANS BENEFITS—Cont'd**

Attorney assistance  
 Accreditation of attorney, **11:33**  
 Fees of attorney, **11:34**  
 Blinded Veterans Association, **11:35**  
 Burial allowance, **11:32**  
 Cemeteries, **11:3, 11:32**  
 Child's allowances. Survivor's benefits, below  
 Dependent child, **11:28**  
 Direct express Master Card debit cards, **10:54, 10:55**  
 Disability compensation, service-connected  
 Generally, **11:4**  
 Financial requirements, **11:8**  
 Increased disability ratings, **11:7**  
 Prerequisites, **11:4**  
 Presumptively service-connected medical conditions, **11:4**  
 Rating system, **11:6, 11:7**  
 Secondary service connection, **11:5**  
 Disabled American Veterans, Department of New York, **11:36**  
 Disabled child, survivor benefits plan, **11:25**  
 Enrollment priority groups, **11:35**  
 Fully developed claims, **11:31**  
 Housebound allowance for Veteran, **11:18**  
 Veteran's survivors, **11:26**  
 Improved disability benefits pension rates, **11:22**  
 Life insurance, **3:7**  
 Medicaid factor, **14:23**  
 Medicare (Part D), **11:10, 12:72**  
 Military service requirements for pension eligibility, **11:12**  
 National Amputation Foundation, **11:36**  
 National Cemetery Administration, **11:3**  
 New York State Veterans' Homes, **11:36**  
 Paralyzed Veterans of America, **11:36**  
 Pension benefits  
 Generally, **11:11**

**VETERANS BENEFITS—Cont'd**

Pension benefits—Cont'd  
 Additional allowances to basic pensions, **11:17**  
 Aid and attendance allowance, **11:19-11:21**  
 Assisted living expenses, **11:21**  
 Basic pension benefit, **11:16**  
 Exempt assets in determining, **11:14**  
 Exempt income considerations, **11:20**  
 Homestead exclusion, **11:14**  
 Housebound allowance, **11:18**  
 Household personalty value exclusion, **11:14**  
 Improved disability benefits pension rates, **11:22**  
 Income disregards and deductions, **11:20**  
 Military service requirements, **11:12**  
 Net worth asset limits, **11:13**  
 Non-service connected benefits, as, **11:11**  
 Transfer of assets, effect of, **11:15**  
 Unrated pension benefits for veterans over age 65, **11:15**  
 War-time service, list of, **11:12**  
 Pharmacy benefits, **11:9**  
 Power of attorney over benefits, **6:25**  
 Resources, **11:36**  
 Spousal allowances. Survivor's benefits, above  
 Supplemental security income benefits (SSI), effect of, **11:20**  
 Survivor's benefits, spousal or unmarried child's allowances  
 Aid and attendance benefits for survivors, **11:27**  
 Death benefit dependency and indemnity compensation, **11:23**  
 Death pension for veteran's surviving spouse or unmarried child, **11:24**  
 Disabled child, **11:25**  
 Housebound allowance for survivors, **11:26**

## INDEX

### **VETERANS BENEFITS—Cont'd**

- 2026 Pension benefit figures, **11:37**
- Unmarried child's allowances.
  - Survivor's benefits, above
- Veteran, who is, **11:2**
- Veteran Asset Protection Trust, **11:29**
- Veterans Administration facilities,  
**11:10**
- Veteran's Benefits Administration  
(VBA), **11:3, 11:36**
- Veteran's Health Administration  
(VHA), **11:3**
- Veterans of Foreign Wars, **11:36**
- War time service periods list, **11:12**
- Who administers the programs, **11:3**
- Wounded Warrior Project, **11:36**

### **VETERAN'S BENEFITS ADMINISTRATION (VBA)**

- Generally, **11:3**

### **VETERAN'S HEALTH ADMINISTRATION (VHA)**

- Generally, **11:3**

### **WAIVER**

- Age Discrimination in Employment  
Act, **1:5**
- Managed care programs, social secu-  
rity waivers, **13:5**
- Medicaid, this index
- Medicare PSO, state license waiver,  
**12:85**
- Powers of attorney, party under dis-  
ability, **6:35**
- Wills, elective share, **22:26**

### **WARTBURG HEALTH CARE CENTER, MATTER OF (MAY v.)**

- Case law analysis, **7:55**

### **WEBSITE**

- As marketing device for successful  
practice, **5:4, 5:8**

### **WELFARE REFORM ACT**

- Medicaid eligibility for aliens, **13:15**

### **WESTCHESTER COUNTY MEDICAL CENTER (O'CONNOR)**

- Case law analysis, **7:47, 7:50**

### **WILLS**

- Generally, **22:1 et seq.**
- Affidavit of subscribing witnesses,  
**22:24, 22:46**
- Asset level, **22:2**
- Attorney as beneficiary, ethical  
issues, **22:18**
- Broad discretionary power clause,  
form, **22:42**
- Client consultation, **3:22**
- Client objectives, **22:3**
- Common disaster provisions
  - Generally, **22:13**
  - Forms, **22:40**
- Confirmation letter, form, **3:36**
- Contingent distributions
  - Generally, **22:19**
  - By representation, **22:23**
  - Per capita, **22:22**
  - Per stirpes, **22:21**
- Disclaimers
  - Generally, **22:27**
  - Requirements, **22:28**
- Disinheritance provision, sample  
language, **22:39**
- Disinheriting relatives other than  
spouse, **22:11**
- Distributions
  - Per capita distribution, **22:22,**  
**22:45**
  - Per stirpes distribution, **22:21-**  
**22:23, 22:45**
  - Pour over wills, **22:29, 22:51**
  - Trust distributions, below
- Drafting checklist, **3:27, 22:52**
- Elective share, spouse
  - Generally, **22:25**
  - Waiver, **22:26**
- Elective share calculation worksheet,  
**22:47**
- Estate taxes
  - Apportionment clause, form, **22:41**
  - Payment provisions, **22:14**
  - Planning, **22:3**
- Executors and trustees
  - Attorney selected as, **22:17**
  - Powers and duties, prudent inves-  
tor act, **22:15**

**WILLS—Cont'd**

- Executors and trustees—Cont'd
  - Selection, **22:16, 22:17**
- Information gathering, **22:2**
- Living trusts, **20:63, 21:26**
- Living Wills, this index
- Long term care planning objectives, **22:2, 22:3**
- Marital status, **22:2**
- Method of unequal distributions to a class of beneficiaries, **22:20**
- No contest clauses
  - Generally, **22:12**
  - Sample language, **22:38**
- Objectives of client, **22:3**
- Order of death provisions, **22:11**
- Overview, **22:1**
- Per capita distribution, **22:22, 22:45**
- Per stirpes distribution, **22:21-22:23, 22:45**
- Planning considerations
  - Ill spouse
    - Both spouses requiring care, **23:19**
    - Requiring nursing home care, **23:15, 23:16**
    - Residence co-occupied with sibling, **23:17**
  - Long term care planning objectives, **22:2, 22:3**
  - Married couples
    - Generally, **22:4**
    - Estates in excess of
      - § 15,000,000, **22:6**
      - Estates in excess of
        - § 15,000,000 and
        - § 30,000,000 in 2026, **22:5**
      - Estates of § 3,500,000, **23:8**
      - Special needs adult child, with, **23:9**
    - Single individual
      - Requiring home care, **23:5**
    - Pour over wills, **22:29, 22:51**
    - Qualified terminable interest property trust (qtip), **22:35**
    - Remote notarization and witnessing, **22:30**
    - Renunciation
      - Generally, **22:27**

**WILLS—Cont'd**

- Renunciation—Cont'd
  - Form, renunciation of Interest and affidavit by renouncing party in estate pursuant to EPTL 2-1.11, **22:48**
  - Requirements, **22:28**
- Right of election
  - Generally, **22:25**
  - Waiver, **22:26**
- Sample inheritance memorandum, form, **22:45**
- Sample memorandum summarizing sample will containing supplemental needs trust for surviving spouse, **22:34**
- Sample will containing a supplemental needs trust for surviving spouse, form, **22:33**
- Special needs provisions
  - Generally, **2:8, 22:7 et seq.**
  - Age of beneficiary, **22:9**
  - Behavioral problems, **22:9**
  - Health care, **22:8**
  - Trusts. Special Needs Trust, this index
- Spendthrift provisions
  - Generally, **22:10**
  - Sample language, **22:37**
- Spouse's elective share
  - Generally, **22:25**
  - Waiver, **22:26**
- Storage and safekeeping, **3:30**
- Supplemental needs as part of will containing unified credit shelter trust and QTIP trust if beneficiary resides in nursing facility, sample language, **22:35**
- Testamentary QTIP trust for a spouse, sample language, **22:31**
- Testamentary QTIP trust for spouse funded with supplemental needs from principal, sample language, **22:32**
- Trust distributions
  - Lump sum, sample language, **22:50**
  - Stages, in, sample language, **22:49**

## INDEX

### WILLS—Cont'd

#### Trusts

- Executors and trustees, above
- Living trusts, comparison between, **20:63**
- Special Needs Trust, this index
- Supplemental needs as part of will containing unified credit shelter trust and QTIP trust if beneficiary resides in nursing facility, sample language, **22:35**
- Supplemental needs trust for surviving spouse, form, sample will containing a, **22:33**
- Supplemental needs trust for surviving spouse, sample memorandum summarizing sample will containing, **22:34**
- Testamentary QTIP trust for a spouse, sample language, **22:31**
- Testamentary QTIP trust for spouse funded with supplemental needs from principal, sample language, **22:32**
- Third party special needs trust, sample language for beneficiaries with severe and

### WILLS—Cont'd

#### Trusts—Cont'd

- chronic or persistent disability, **22:36**
- Waiver, right of election, **22:26**
- Witnesses subscribing, affidavit, **22:24, 22:46**
- Writing executed prior to or concurrently with will, **22:43**
- Writing executed subsequently to will, **22:44**

### WITHDRAWAL

- Discontinue an Article 81 Hearing, **8:65**
- Guardianship, **8:64**
- Medicaid fair hearing request, **16:13**
- Medical savings account plan, **12:87**

### WITNESSES

- Medicare hearings before administrative law judge, **12:50, 12:51**
- Remote notarization and witnessing, **22:30**
- Subscribing witnesses, affidavit, **22:24, 22:46**

### WORDS AND PHRASES

- Definitions, this index

### WORKER'S COMPENSATION

#### CLAIMS

- Medicare Set Aside Trusts, medicare (Part D) services, **12:76**