Elder Law and Special Needs Section: 2025-2026 Legislative Session Wrap-Up

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The 2025-2026 New York legislative session concluded in June. Bills passed by both the Assembly and Senate this year will be sent to the governor for action by the end of the calendar year. The legislative session in New York is a two-year cycle. Bills not passed in the first year remain active in the second year. However, at the end of the two-year session, bills not passed must be reintroduced to be considered in the future. The period between sessions can be an important time to reach out to your state assemblyperson and senator to ensure bills of import are reintroduced. It can also be an opportunity to propose revisions to bills to be introduced in the new session rather than requiring amendments once the session formally begins.

We saw movement during the session on issues of importance to our section. However, with the passage of H.R.1 in 2025, and the looming cuts to social programs in the coming years, issues with a pricetag took a back seat.

Each January, the legislative calendar begins with budget negotiations, driven by a budget proposal from the governor. Though the New York Constitution requires that a budget be passed by April 1 of each year, such negotiations often extend well past the deadline. This year was no exception, with the budget passing at the end of May, leaving only a few weeks for non-budget related legislation.

New Laws of Interest to ELSN Practitioners

Electronic Wills Act (S7416/A7856A). Signed into law by the governor in December 2025, the New York Electronic Wills Act[1] takes effect June 10, 2027, the legislation allows for the electronic execution, attestation, filing, and revocation of New York wills.

Medical Aid in Dying (S138/A136). Governor Hochul signed New York's Medical Aid in Dying Act on February 6, 2026. The law takes effect on August 5, 2026, providing end of life options for certain terminally ill New Yorkers. Among many of the act's requirements, in order to utilize its provisions, a person must be a resident of New York, have a terminal illness with six months or fewer to live, have legal capacity to make their own healthcare decisions, and be able to self-administer the medication. The New York Department of Health is currently working on the related regulations.

Assisted Living Evaluation Time Limit (S3361/A2027). This bill requires medical evaluations for assisted living eligibility be conducted within 30 days prior to the date of admission. Additionally, the bill allows for the medical evaluations to be done by a nurse practitioner, rather than only by physicians.

Vetoed Bills of Interest to ELSN Practitioners

A number of bills requiring the New York Department of Health to report on various issues and requiring other state agencies to collaborate on elder care issues were passed by both legislative houses, but then vetoed by the Governor.

Age-Friendly Health Systems (A1988B/S5742-A). Establishes an age-friendly health system technical assistance center to provide assistance in relation to age-friendly health systems and hospital performance data.

Elderly Pharmaceutical Insurance Coverage (EPIC) Program (A8090/S7671). Requires the Department of Health to produce a report on the utilization and activity of the elderly pharmaceutical insurance coverage program, including future enrollment and program cost projections. It also requires such report to be published and delivered to the Governor, the temporary president of the Senate, and the speaker of the Assembly.

Interagency Elder Justice Task Force (S1202A/A7277). Establishes the Interagency Elder Justice Task Force, consisting of representatives of state agencies whose work involves elder justice intended to create greater collaboration and develop overarching strategies, systems, and programs to protect older adults from abuse and mistreatment.

Reporting Unmet Needs (S6035/A384). Relates to reporting the number of eligible individuals seeking participation in a program or service for the aging who are not receiving such program or service due to insufficient resources or capacity.

Bills of Interest to ELSN That Passed and Are Pending Action by Governor

The following bills passed the Legislature and are pending action by the Governor. Unless noted otherwise, the ELSN did not take a position on these bills.

Guardianship Certification by School Psychologist and Physician (A8514/S7279). Authorizes certified school psychologists to participate in the certification of an individual as intellectually disabled or developmentally disabled. The Executive Committee of the Environmental Law Society Network Section voted to support this bill.

Medicaid Dental Coverage (A1931/S3566). Amends social services law to include dental implants, replacement dental prosthetic appliances, crowns and root canals as medically necessary dental care and services for Medicaid coverage. The legislation is necessary to codify terms of a stipulation agreement that took effect on January 31, 2024 and set to expire on January 21, 2028. For more information on the lawsuit (*Ciaramella v. McDonald*) and dental services covered under Medicaid, see https://nyhealthaccess.org/entry/250/.

Nursing Home Transition Diversion (NHTD) Waitlist (S9573/A11569). Authorizes the commissioner of health to establish NHTD waiting lists per designated waiver region and draw eligible persons who have been on the waiting list in the order in which they came in each region. This legislation is necessary because the FY 2025-2026 state budget placed an enrollment cap of 9,400 on the NHTD program. This cap was approved by Centers for Medicare & Medicaid Services effective January 1, 2026. The cap was quickly met and has left many eligible individuals unable to access the vital NHTD program.

Nursing Home Hospice Agreements (A10310B/S9620A). Requires all nursing homes to maintain at least one formal contract with a hospice provider. This legislation seeks to ensure access to hospice, facilitate resident choice, address system-level gaps, and improve care coordination.

Nursing Home Disclosure (A10312A/S9555A). Expands the information that nursing homes must disclose to residents and their families as part of the intake application. Such disclosure must now include information regarding the ownership structure, the current board of directors and/or members of a limited liability entity, and any contractors involved with the major functions of the facility including staffing, food and linen service. This information is required to be posted on the facility's website. The Department of Health shall publish information related to the facility's ownership structure and contracts on the New York State nursing home profiles website.

Ceasing Repeated and Extremely Egregious Predatory (CREEP) Behavior Act (S3394A/A3226A). Modernizes New York's stalking laws by expanding access to civil orders of protection for all victims of stalking, regardless of their relationship to the perpetrator. Currently civil orders of protection only apply to individuals who are related to or have had an "intimate relationship" with the person causing harm. As a result, many victims, especially those targeted by caregivers, neighbors, service providers or others involved in harassment, are left without effective civil options.

Bills ELSN Continues to Follow

The Environmental Law Society Network Legislation Committee has been following the below proposals.

Convenience v. Joint Accounts (A8549 and NY NAELA Choice in Banking proposal).[2] Legislation was proposed purportedly to allow New Yorkers to utilize convenience accounts as they are generally not offered by the banks. However, the Environmental Law Society Network Section believes such legislation as introduced and as amended does so in an unnecessarily complicated way and by relying on marital status for default provisions. The bill has since been amended to eliminate convenience accounts entirely and allow for convenience signers. For reasons that appear unconnected to the express goal of the bill, the bill also does away with the long-standing moiety rule for many but not all accounts, replacing it with a consumer obligation to track all expenses, earnings, deposits and withdrawals pro rata per owner over the lifetime of the account to determine ownership. The ELSN Section believes this proposal as amended is overly complicated, unworkable in practice, and will lead to significantly more – not less –probate litigation. Therefore, the Executive Committee of the ELSN Section voted to support the NY NAELA Choice in Banking proposal which retains convenience and joint accounts, requires depositors to receive a plain English explanation, and requires a choice to be made. It also provides a default to a joint account if there is not a required beneficiary designation. ELSN expects to continue advocating for this alternative in the coming session.

Elder Exploitation. Barriers to Criminal Prosecution of Elderly Exploitation. A number of bills intended to reduce barriers to criminal prosecution of elderly exploitation were introduced during the 2025-2026 session. The ELSN Section established a work group to review and comment on these bills.

1. **Admission of Spontaneous Statements** (A9142). Permits the admission of spontaneous statements in court by certain victims of certain frauds, abuse and theft offenses. This spontaneous statement would be permitted for a victim who is a vulnerable elderly person, an incompetent or physically disabled person, or a person who has been determined to be incapacitated. This bill does not have a Senate companion bill and it remained in committee (Assembly Codes) during the 2025-2026 legislative session.

2. **Financial Exploitation of the Elderly** (S6379/A7019). Establishes protections for adults 60 years of age or older, as well as 18 and above who, because of mental or physical impairments, are unable to manage their own resources or protect themselves from financial exploitation without assistance from others. Both the Senate and Assembly versions remained in Committee (Assembly Banks, Senate Consumer Protection) in the 2025-2026 legislative session.

3. **Inference of Larceny for Certain Transfers** (A9143A). Establishes a reasonable inference that certain transfers of money or property by a vulnerable elderly, physically disabled, incompetent or incapacitated person are a wrongful taking in violation larceny statutes. This bill does not have a Senate companion and remained in committee (Assembly Codes) during the 2025-2026 legislative session.

Electronic Notarization of Powers of Attorney and Certain Other Documents (A9232). Amends the state technology law, in relation to permitting the electronic notarization of certain documents. As drafted, the proposal is unnecessarily complicated and could, unintentionally, allow for an electronic signature to be used for trusts and powers of attorney. The Executive Committee of the ELSN Section voted to oppose to this bill. If the bill is reintroduced as originally drafted in the new session, the ELSN Section expects to continue to oppose the legislation.

Guardianship. A number of bills related to guardianship were introduced in the 2025-2026 legislative session. The ELSN Section continues to advocate around these issues.

1. **Good Guardianship Act** (A9295/S8654). Establishes a statewide initiative of not-for-profit guardians that "leverages the expertise and capacity of existing, reputable not-for-profit organizations to provide comprehensive, multidisciplinary guardianship services. This initiative will help grow well-established guardianship programs, create new programs, and promote alternatives to guardianships where appropriate to ensure that the entire state has access to these services. Understanding the magnitude of serving as a guardian, this legislation will ensure proper oversight, accountability, and service delivery while addressing the needs of individuals who cannot care for themselves due to age, disability, or other conditions."[3] This legislation is consistent with the recommendations of the adopted New York State Master Plan on Aging, which supports a $15 million investment in guardianship services. The bill passed the Senate on June 1, 2026 but remained in the Assembly Ways and Means Committee. The ELSN Section has not yet taken a position on this bill.

2. **Guardianship and Medicaid** (A10400A). Prohibits entities from bringing a guardianship proceeding solely to collect a debt, discharge from a facility with a duty of care, or other action not in the person's best interest. The legislation requires financial institutions to provide all necessary bank statements for a Medicaid application to a requesting Department of Social Services or other state or local agency administering public assistance or medical assistance within a reasonable amount of time of receipt of such request. Additionally, it requires banking organizations to provide such records within 30 days of receipt of such request. This bill did not have a Senate companion bill and remained in the Assembly committee at the end of the 2025-2026 ses-

sion. The ELSN Section has not yet taken a position on this bill.

3. **17A Guardianship Overhaul** (A8301). Seeks to overhaul the 17A Guardianship process relating to guardians of persons who are intellectually and developmentally disabled. The bill remained in committee in the Assembly and has no Senate companion bill. The ELSN Section has not yet taken a position on this bill.

4. **Guardianship Proposals Circulating but Not Yet Introduced**

   a. Codifying the Supreme Court's ongoing jurisdiction over a guardianship matter after the death of the ward.

   b. Allowing Article 81 Courts to issue orders of protection and have them registered with the police for enforcement.

Personal Needs Allowance Increase. Two bills were introduced in the Assembly to increase Medicaid recipients' personal needs allowance (PNA). The current PNA amount was set in 1988 and has never been increased, despite nearly four decades of inflation. The spending power of the $50 PNA has been significantly eroded over this time as $50 in 1988 adjusted for inflation would be approximately $140 today. **Increases PNA to $200/month with annual COLA** (A2048/S4744)**.** Remained in committee of both the Assembly and Senate this session, as it did when originally introduced in the 2023-2024 legislative session (A8396/S7786). The Center for Elder Law and Justice worked tirelessly to have the bill included in the budget negotiations. At their request, the ELSN Section reviewed the bill and drafted a memo in support. The Executive Committee of the ELSN Section voted in favor of a memo in support. Unfortunately, it was neither included in the budget negotiations nor did it move out of either committee during the 2025-2026 session. Note that there is a second bill relating to the PNA that would increase it from $55 to $100 per month. However, that bill lacks a Senate companion bill and remained in committee, as it has for the previous three two-year session cycles (A6028).

Power of Attorney Notification Requirements (S4549/A8430). Requires principals to notify co-trustees and co-beneficiaries when a power of attorney is signed. The ELSN Section continues to oppose this version of the legislation for the same reason that we opposed the previous versions of the legislation. There was some concern from our lobbyists that the Senate might try to move the bill out of the Judiciary Committee to the floor of the Senate this session, but that did not happen.

For background, in 2022 a similar version of this bill passed both houses (S8892/A4601). However, the bill was vetoed after many stakeholders, including the ELSN Section, issued letters in opposition to the bill. The legislation was reintroduced mostly unchanged during the 2023-2024 legislative session (A7708A/S3503A) but neither bill moved out of committee (Senate Rules, Assembly Judiciary).

To stay up to date on all legislative activity of the ELSN Section, please feel free to attend and/or join the ELSN Legislation Committee.

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Endnotes

1. Codified as New York Estates, Powers and Trust Law Section 3-6.1 et seq.
2. To obtain a copy of New York NAELA's Choice In Banking proposal, please contact the chairs of of the ELSN Legislation Committee.
3. A9295 Section 2 Legislative Intent and Findings.