

Elder Law Syllabus

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Hamline University School of Law

Health Law Institute 2013 Summer Term

General Course Information

<i>Course:</i>	Elder Law
<i>Location:</i>	Hamline School of Law Building, Room 103
<i>Credits:</i>	2 law school credits or 24 CLE credits
<i>Adjunct Faculty:</i>	Suzanne M. Scheller, JD; Qualified Neutral; Practicing Attorney; Former MSBA Elder Law Chair
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<i>Class Schedule:</i>	June 14 (5:30 pm - 8:15 pm)
	June 15 & 16 (1:00 pm – 7:00 pm)
	June 17, 18, 19, 20 (5:30 pm – 8:15 pm)

Objective of Class

Elevate understanding of issues facing the aging population and promote meaningful responses to address those issues.

Overview and General Description

This course examines a number of legal, ethical, and social issues raised by our nation's growing elder population. Focus is on the practical application of the current laws in Elder Law. Special attention is given to: (i) elder abuse, neglect, and financial exploitation; (ii) the licensing, certification, accreditation, and general regulation of health care and housing providers; (iii) end-of-life issues, including senior settlements, health care directives, surrogacy, and physician-assisted suicide; (iv) guardianship and conservatorship; (v) financial planning for retirement; (vi) managing and paying for health care, including Medicaid, Medicare, long-term care insurance, and health care reform issues; (vii) property management, including durable powers of attorney for property, joint ownership and financial accounts, trusts, and estate planning; (viii) age discrimination; (ix) ethical issues in elder representation; (x) other family issues, including "grandparents as parents," grandchild visitation, and later marriages and re-marriages; (xi) remedies available to vulnerable adults, such as criminal, administrative, and civil remedies, including medical malpractice; and (xii) elder mediation.

Course Materials

Nina A. Kohn, Elder Law: Cases, Problems, Exercises, Review Copy Only (Do not share without the author's permission; anticipated Publication by Aspen Publishers Fall 2013) (hereinafter "textbook").

Please note that we will be using a Review Copy of a book that is to be published in Fall 2013. I chose this book for the breadth of coverage, timely relevance, and low cost to students. Please respect the author's graciousness in letting us use a Review Copy of the book and do not share with anyone outside of the class, as requested by the author. I may ask for feedback on the book to provide to the author.

Course Attendance

At the beginning of each class session, I will distribute a class roster for you to sign. If you are absent for more than 20% of our total in-class minutes, I will treat your absences as "excessive" in accordance with the Hamline University School of Law Student Handbook. Please contact me in advance if you will be absent.

Technology Policy

Students may use technological devices for class purposes only. Students using technological devices for non-class purposes may be negatively affected, including but not limited to being asked to drop the course, not receiving full credit, or a mark down in grade.

Course Evaluation

1. **Class Participation:** The more you engage and ask questions, the more you will learn. Students should come to class prepared to discuss the course material and actively participate in class discussions and activities. **Class participation will account for 20% of the final grade. "Participation" is defined as being in attendance, being prepared, and interacting in class.**
2. **Assignments.** Review of the material or locating resources during a week long course helps retain understanding. Short assignments will be provided periodically during the week. The first assignment is finding a resource to share with the class in the field of elder law and post that on TWEN by Noon on June 14. The resource could be a website, book, article or any material relevant to Elder Law and aging but must have been published in the last 12 months. Other assignments will follow. **The assignments will count for 10% of the final grade.**
3. **Final Exam:** The final exam will consist of a take-home (open book) final and a short paper. The final exam and short paper must be submitted via TWEN by 11:59 pm (central standard time) on Monday, June 24. **The final exam will account for a total of 70% of the final grade, with the take-home test accounting for 40% and the paper accounting for 30%.**
 - a. *Take-Home Final.* Exam questions will be provided. More details to follow.
 - b. *Short Paper.* The paper shall be 5-7 pages long (one inch margins; double-spaced; Times New Roman 12-point font), exclusive of a cover page and inclusive of footnotes (not endnotes) formatted in accordance with the most recent edition of The Bluebook: A Uniform System of Citation, available at

<https://www.legalbluebook.com/>. I will evaluate papers based on: (1) identification, clarity, and originality of thesis; (2) timeliness/currency of elder law-related topic; (3) quality of research, including identification and proper referencing of sources; and (4) use and reliance on primary legal authorities (including statutes, regulations, and judicial opinions) versus sole reliance on secondary authorities (including law review articles, newspaper articles, and Web sites that do not constitute primary authorities).

Course Reading Schedule

For the first day of class on Friday, June 14, 2012, please complete the following:

- Read Chapters 1 & 2 of the textbook;
- Submit via e-mail to me a paragraph about your purpose in taking the Elder Law class, including a brief note about your professional background and/or interest in the field of Elder Law; and
- Submit via TWEN post an elder law resource published within the last 12 months as described above in the “assignment” section.

After the first day of class, I anticipate that we will cover approximately one to two chapters each day of class. At the end of each class, I will confirm the material that will be covered during the following day of class. I will also bring in guest speakers and other resources to supplement materials as needed. My intent is to focus on practical issues arising in Elder Law from the lens of a practicing attorney. I will rely on you to keep up with reading the materials while focusing as much as possible on application in class.

Tentative Schedule of Materials Covered in each Class Session

June 14, 2013

Reading

Chapter 1: Introduction to Elder Law and Elder Law Practice.

Skim Chapter 2: The Legal Status of Old Age and Age Discrimination.

Topics

Aging; Capacity; Scope of Elder Law; Legal Representation; Ethical Issues; Age-Based Classifications; Age Discrimination in Employment.

June 15, 2013

Reading

Chapter 9: Grandparenting and Grandparent’s Rights.

Chapter 3: Surrogate Decision-Making.

Possible Supplement: Elder Mediation.

Topics

Family Matters (remarriage; grandparent rights); Power of Attorney; Health Care Agent; Guardianship; Conservatorship; Incapacity; Least Restrictive; Elder Mediation.

June 16, 2013

Reading

Chapter 6: Housing and Long-Term Care

Supplement: Elder Care Guide.

Topics

Housing options; Home Care; Assisted Living; Continuum of Care; Facility and Professional Licensure; Nursing Home Litigation; Remedies.

June 17, 2013

Reading

Chapter 7: Elder Abuse and Neglect.

Possible Supplement: Remedies – Administrative, Criminal, and Civil.

Topics

Vulnerable Adult; Maltreatment; Adult Protective Services; Civil, Administrative, and Criminal remedies.

June 18, 2013

Reading

Chapter 4: Income in Old Age.

Possible Supplement: Estate Planning, Retirement Planning.

Topics

Social Security; Disability; Retirement Planning; Property Management (joint ownership & beneficiary designations); Estate Planning, Wills, Trusts, Military and Veteran's benefits.

June 19, 2013

Reading

Chapter 5: Financing Health Care.

Topics

Medicare; Medicaid; Appeals; Medical Assistance Planning; Long-term Care Insurance.

June 20, 2013

Reading

Chapter 8: Death and Dying.

Topics

Terminally Ill; Right to Die; Incapacity; Physician-Assisted Suicide; Senior Settlement; Hospice.

Last Revised:
May 4, 2013