

Elder Law Syllabus

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Hamline University School of Law

Health Law Institute 2014 Summer Term

General Course Information

<i>Course:</i>	Elder Law
<i>Location:</i>	Hamline School of Law Building, Room 4
<i>Credits:</i>	2 law school credits or 23.5 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 17, 18, 19, 20 (4:30 pm – 9:00 pm) June 21 (8:00 am – 5:00 pm)

Objective of Class

Increase 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

Kohn, Nina A., Elder Law: Practice, Policy, and Problems, Wolters Kluwer Law & Business in New York 2014 (hereinafter "textbook").

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 16. 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 30. **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.* A final exam will be posted after class on June 21, 2014. The questions will consist mostly of short answer.
 - b. *Short Paper.* The paper shall be written on a topic of Elder Law covered during the class, for which the student has an interest and wants to extend his or her learning. Preference should be given to a topic that has judicial determinations, whether through administrative means or through the court. 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).

First Day of Class

For the first day of class on June 17, 2014, 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.

Class Schedule

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.

June 17, 2014

Reading

- Chapter 1: Introduction to Elder Law and the Aging Process.
- Chapter 2: Elder Law Practice.
- Chapter 3: The Legal Status of Old Age and Age Discrimination. (skim)

Topics

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

June 18, 2014

Reading

- Chapter 10: Grandparenting and Grandparent’s Rights.
- Chapter 5: Income in Old Age.
- Possible Supplement: Estate Planning, Retirement Planning.

Topics

Family Matters (remarriage; grandparent rights); Social Security; Disability; Retirement Planning; Property Management (joint ownership & beneficiary designations); Estate Planning, Wills, Trusts, Military and Veteran’s benefits.

June 19, 2014

Reading

- Chapter 4: Surrogate Decision-Making.
- Possible Supplement: Elder Mediation.

Topics

Power of Attorney; Health Care Agent; Guardianship; Conservatorship;

Incapacity; Least Restrictive; Elder Mediation.

June 20, 2014

Reading

Chapter 6: Financing Health Care.

Chapter 8: Elder Abuse and Neglect.

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

Topics

Medicare; Medicaid; Appeals; Medical Assistance Planning; Long-term Care Insurance. Vulnerable Adult; Maltreatment; Adult Protective Services; Civil, Administrative, and Criminal remedies.

June 21, 2014

Reading

Chapter 7: Housing and Long-Term Care

Chapter 9: Death and Dying.

Topics

Housing options; Home Care; Assisted Living; Continuum of Care; Facility and Professional Licensure; Nursing Home Litigation; Remedies. Terminally Ill; Right to Die; Incapacity; Physician-Assisted Suicide; Hospice.

Last Revised:
May 11, 2014