ELDER LAW SYLLABUS—FALL 2018
LAW 965

Professor John A. Miller
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Course description

Elder Law surveys the areas of law that have particular relevance for the elderly. These areas include Social Security, pensions, annuities, Medicare, Medicaid, health care decision-making, property management, special needs trusts, veterans disability benefits, guardianships and conservatorships, elder abuse, elder housing, and end of life issues. The course also examines the special ethical issues that often arise for attorneys who represent older persons.

REQUIRED TEXT:

Ralph Brashier, MASTERING ELDER LAW (CAROLINA ACADEMIC PRESS 2D ED 2015)

Sean Bleck, Barbara Isenhour, and John A. Miller, Preserving Wealth and Inheritance through Medicaid Planning for Long Term Care, 17 MICHIGAN STATE UNIVERSITY JOURNAL OF MEDICINE AND LAW 153-196 (2013). Posted on BBLearn


REQUIRED DEVICE or APP:

CLICKER for Turning Point

Product Name: ResponseCard NXT
Or More recent versions

OR

Turning Point App for your phone (Note: if you are in Boise, you must have the app since your responses will arrive over the internet.)
Optional Materials:
Elder Law in a Nutshell (Frolik & Kaplan, Latest Edition)

Reference Materials in our Library
REPRESENTING THE ELDERLY CLIENT (2 VOLS) BY THOMAS BEGLEY AND JOANNE JEFFRIES (DISK ON RESERVE)
ELDER LAW FORMS MANUAL (2 VOLS) BY HARRY S. MARGOLIS (DISK ON RESERVE)
ELDER LAW ANSWER BOOK (3RD Ed.) by Robert Fleming and Lisa Davis

EVALUATION

There will be a final exam which will be anonymously graded. The final exam will consist of one or more essay questions. The exam is open book. You may bring in to the exam any written materials (in a non-digital format) you choose. Additional information regarding the exam will be announced in class.

I will ask many clicker questions. The purpose of those questions is to give you and I immediate feedback about your progress in the course and as an aid to thought and discussion.

Class Participation. Although attendance and participation will not be a formal component of your final grade, I reserve the right to lower your final grade for poor class participation. You are expected to attend class and prepare the assigned readings prior to class. If you: (a) are repeatedly absent when called on; (b) excessively "pass" when called on; or (c) are routinely unprepared when called on, your final grade will be reduced. You should not panic about having to miss the occasional class session; after all, we all have exigencies that sometimes require us to be less than fully prepared for each class. But where these habits become the norm and not the exception, you disrespect your classmates and this college.

Credit Hours for Coursework
In accordance with ABA Standard 310, the College of Law awards one credit hour for experiences that are reasonably designed to involve 50 minutes of classroom or direct faculty instruction and two hours of out-of-class student work per week, or at least the equivalent amount of work for academic activities including simulation, field placement, clinical, and other academic work leading to the award of credit hours.
The Course requirements outlined above with respect to materials and assignments, in my professional judgement, are complex enough in nature that it is expected that the amount of out-of-class time it will take students to complete the assignments will meet the rule.

**Office Hours & E-mail.** This semester my office hours will be posted in due course. You are most welcome to drop by my office (Room 208) anytime during the day or make an appointment to visit with me. When making an appointment by email, suggest two or three times when you are available within the coming few days, and I will do my best to schedule you for one of those suggested times. One of the highest priorities for me is to be available to students, so do not hesitate to contact me for additional help. You are welcome to come by individually or in small groups. You are also encouraged to make use of e-mail for questions. I find the e-mail method very effective at weeding out questions that you can solve yourself with some thought. Students also like having written answers to their questions so that they do not have to worry about forgetting an earlier conversation. Of course, there is often no substitute for personal contact, so do not feel obligated to use e-mail.

**Recording Classes.** Upon giving advance notice to me, you are welcome to make your own audio recordings of any class session for your own personal use. You may not sell, license, duplicate, distribute, or otherwise transfer any audio recording of a class lecture without my prior written consent.

**PowerPoint Slides.** I often use PowerPoint slides in class to diagram transactions and to present lists, tables, and other information efficiently and clearly. I post most slides on BBLearn for the entire class, but I do not make the slides available on an individual basis outside of class. If you have to miss class, you should obtain notes from a colleague. I am happy to answer any specific lingering questions you may have after taking these steps, but copies of the slides will not be distributed except as noted above.

**Guest Lectures:** We may have guest lectures by practitioners and others with special expertise in various aspects of elder law. You will be greatly advantaged in your ability to benefit from these lectures by having thoroughly prepared the assigned materials relating to the guest’s topic. Often the guest may address the topics on a deeper or more practical level than the text, and you may miss much of the benefit of the guest's expertise if you are not well prepared in advance. Material addressed by guest lecturers is fair game for the exam.

**Center for Disability Access and Resources (CDAR) Reasonable Accommodations Statement:** Reasonable accommodations are available for students who have documented temporary or permanent disabilities. Ideally, students in Moscow and Boise should meet with CDAR by the end of the first week of class to assess if any accommodations are needed for courses and/or
examinations. All accommodation requests are then submitted by CDAR to Dean Dodge for final approval. CDAR serves as the sole evaluator of medical documentation and determines reasonable accommodations on a per semester basis. The College of Law does not have the authority to evaluate or grant disability accommodations without CDAR first submitting a recommendation. You may contact CDAR by:

- Calling 208-885-6307
- Emailing cdar@uidaho.edu

It is ultimately the student’s responsibility to seek a disability accommodation, and until an accommodation is approved by CDAR and Dean Dodge, no student will be entitled to receive any accommodations. To learn more about CDAR, visit its website at http://www.uidaho.edu/current-students/cdar. Moscow students may also visit CDAR in suite 127 of the Pitman Center. Please review the College of Law Catalog and Student Handbook for more information on the disability accommodation process.

Civility. In any environment in which people gather to learn, it is essential that all members feel as free and safe as possible in their participation. To this end, it is expected that everyone in this course will be treated with mutual respect and civility, with an understanding that all of us (students, instructors, professors, guests, and teaching assistants) will be respectful and civil to one another in discussion, in action, in teaching, and in learning.

Should you feel our classroom interactions do not reflect an environment of civility and respect, you are encouraged to meet with me during office hours to discuss your concern. Additional resources for expression of concern or requesting support include the Dean of Students office and staff (885-6757), the UI Counseling & Testing Center’s confidential services (885-6716), or the UI Office of Human Rights, Access, & Inclusion (885-4285).

COURSE SCHEDULE (Subject to adjustment to accommodate guest speakers)

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<tr>
<th>Assignment 1</th>
<th>Chapter 12: The Professional Responsibilities of the Lawyer</th>
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<tr>
<td>Assignment 2</td>
<td>Chapter 1: Elder Abuse (plus Lecture on the impaired client)</td>
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<tr>
<td>Assignment 3</td>
<td>Chapter 2: Guardianships</td>
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Assignment 4  Chapter 3: Wealth Management (plus lecture on Special Needs Trusts)

Assignment 5  Chapter 4: Health Care Decision-making (plus lecture on body ownership)

Assignment 6  Chapter 6: Social Security and Other Income Sources including Pensions and IRAs

Assignment 7  Chapter 8: Medicare

Assignment 8  Chapter 9: Medicaid

Assignment 9  Articles: Preserving Wealth and Inheritance through Medicaid Planning for Long Term Care and Medicaid Planning in Idaho (plus lecture on veteran’s disability pensions)

Assignment 10  Practice Exam

Assignment 11:  Chapter 10: Long Term Care

Assignment 12:  Chapter 11: The Home

**COURSE OBJECTIVES AND EXPECTED LEARNING OUTCOMES**

This course will provide the foundation for conducting an elder law practice. Outcomes will include:

1. The ability to recognize ethical issues and concerns central to the representation of elderly clients;
2. An understanding of the nature and causes of emotional, physical and financial elder abuse;
3. The ability to conduct a guardianship proceeding and the ability to recognize when such a proceeding is appropriate;
4. The ability to draft durable powers of attorney and other documents relevant to the management of a person’s wealth;
5. The ability to draft health care directives and other documents relevant to the management of a person’s health care;
6. An understanding of the Social Security benefits system and the ability to advise a client on the appropriate benefits election under the client’s circumstances;
7. An understanding of Veterans’ disability benefits and the ability to advise a client on how to access those benefits;
8. An understanding of the Medicare benefits system and the ability to advise a client on the appropriate benefits decisions under the client’s circumstances;
9. An understanding of the Medicaid benefits system and the ability to advise a client on the appropriate actions to access that system under the client’s circumstances;
10. An understanding of the housing options available to seniors and the ability to guide decision-making with respect to such housing.