

LAW & THE ELDERLY
Professor Radford
Spring, 2010

Text: Frolik & Barnes, *Elderlaw: Cases & Materials* (4th edition)

Helpful Websites: ABA Commission on Legal Problems for the Elderly
www.abanet.org/edlerly/home.html
Administration on Aging
www.aoa.dhhs.gov/default/htm

American Association of Retired Persons
www.aarp.org

Centers for Medicare & Medicaid Services
www.hcfa.gov

Elder Search
www.eldersearch.com

National Academy of Elder Law Attorneys
www.naela.com

National Senior Citizens Law Center
www.nsclc.org

Social Security
www.ssa.gov

Attendance & Preparation Policy:

Students are expected to attend each class prepared to discuss the materials and problems assigned. The professor reserves the right to refuse to give course credit to any student who has missed *five or more* classes.

Grading Policy:

The final grade will be based on:

20%	Class Participation & Attendance
20%	Position Paper
60%	One Research Paper or Two short Research Papers

A *Position Paper* is a paper of 5-7 double-spaced pages in which you discuss your position on a controversial issue in the area of Elder Law. (A list of suggested topics is attached.) This paper will be primarily your own thoughts, although you obviously will need to consult other sources before you can make an informed decision. Footnoting need

only be minimal, but you should include at the end a list of the sources you read. Your Position Paper is due by MARCH 3, 2010.

The *long Research Paper* is designed to satisfy the College of Law writing requirement as well as the requirements of this course. (A list of suggested topics is attached.) A paper that receives a grade lower than “73” shall not be deemed adequate to satisfy the writing requirement. The paper should be 20-30 pages in length (including footnotes or endnotes). The Harvard Blue Book system of citation should be used.

A *short Research Paper* is about 10 pages in length. The topics suggested on the list lend themselves to either a short or long research paper.

If you would like to write on a topic that is not on the list, please check with Professor Radford in advance to be sure it is appropriate.

A word about CITING SOURCES & PLAGIARISM: The papers should be extensively researched and every source used in writing the paper must be cited. Direct quotes should be reproduced as such, including quotation marks and a citation to the author. Credit should also be given to any source which is paraphrased. Citations should be given for statutes and regulations. In other words, when in doubt, cite! If you have any questions, concerning what does or does not constitute plagiarism, consult the professor. Plagiarism in a paper will result both in a grade of “0” for the paper and a referral of the offense to the Honor Court. Failure to abide by these rules may result in a failing grade on the paper and an Honor Court charge of plagiarism.

I will be happy to read drafts of your Research Papers at any point. I will need a week to edit the paper and get it back to you. The last day for turning in the Research Papers is THURSDAY MAY 13 by 5:00 pm. Students will be penalized 5 points for every day the paper is late.

Class Assignments:

Reading material will be assigned primarily on a weekly basis. Please read all of the material prior to class on Monday.

Student Appointments:

The professor is generally available to discuss course issues with students. Please call her office (404-413-9188) to make a mutually convenient appointment. Alternatively, you may e-mail questions to mrادford@gsu.edu

This Syllabus provides a general plan for the course. Deviations may be necessary.

March 29

Week XII

April 5

GUARDIANSHIP, Part 2

Read pp. 485- 502: Georgia Guardianship/Conservatorship
Petition

Week XIII

April 12

HEALTH CARE DECISIONS: Read Ch. 10

Week XIV

April 19

ELDER ABUSE AND NEGLECT: Read Ch. 11

Week XV

April 26

Catch-up

Suggested Topics for Position Papers

1. Should grandparents have the right to visit their grandchildren even if the parent objects?
2. Should individuals over age 65 be required to renew their driver's licenses annually?
3. Should individuals over age 65 be exempt from local property taxes that are used to support public schools?
4. Should there be laws that enhance sentencing for crimes against the elderly?
5. Given a shortage of organs (kidneys, etc.), should preference for organ transplants be given to individuals under the age of 65?
6. If an individual goes on Medicaid, should the state be allowed to put a lien on the individual's property and collect from the individual's estate after death?
7. Should recipients of Social Security be capped as to the amount of outside income they can earn?
8. Should Georgia allow physician-assisted suicide?
9. Should a mandatory retirement age exist for college professors?
10. Should elderly individuals who commit crimes receive reduced sentences due to aging or physical health?
11. Is the AARP a neutral organization or an organization with a political (Democratic) agenda?
12. Should state statutes (e.g., Georgia's Disabled Adults Protection Act) require reporting of suspected elder abuse? If so, who should be required to report?
13. Should health and life insurance companies be able to use genetic testing (e.g., the recently discovered "Alzheimer's gene") to deny coverage?
14. Should flight engineers (as opposed to pilots or co-pilots) have a mandatory retirement age?
15. Should judges who are appointed under Article III of the Constitution be required to retire, or at least have their salaries reduced when they can no longer serve?
16. Should euthanasia be allowed for terminally ill people who are in chronic pain?
17. Should a new health care bill include the requirement that would require financing for optional consultation with doctors about hospice care (aka "death panels")?

Suggested Topics for Research Papers

1. The Americans with Disabilities Act and Older Americans
2. Is Age Discrimination Unconstitutional?
3. Alternatives to Formal Guardianship
4. Advance Health-Care Directives
5. Legal Definitions of “incapacity” and “incompetence” (for guardianship & related purposes)
6. Timing and Taxation of Retirement Plan Distributions
7. The Use of Mediation in Elder Law
8. Legal Mechanisms for Dealing with Scams on the Elderly
9. Dynasty Trusts and the Abolition of the Rule against Perpetuities
10. Proposals for Estate Tax Reform
11. Medical Savings Accounts
12. The Regulation of Nursing Homes & Similar Facilities in Georgia
13. Section 202 Housing for the Elderly
14. The Use of Revocable Trusts in Estate Planning
15. Special Concerns for Gay and Lesbian Elders
16. Reverse Mortgages
17. Health Care Reform and Medicare
18. Special Needs Trusts
19. Planning for Medicaid
20. Arbitration of Nursing Home Disputes