

What is elder law?

- ◆ Elder law is an area of practice that serves the aging population, focusing on areas of the law that commonly present issues for older individuals. This includes estate planning, advanced directives, conservatorships, access to health care, including quality of care issues that might involve Medicare and Medicaid insurance.
- ◆ The world's elderly population is growing at an unprecedented rate. Today 8.5% of people worldwide are aged 65 and over. America's 65-and-over population is projected to nearly double over the next three decades, from 48 million to 88 million by 2050. (National Institute on Aging: <https://www.nia.nih.gov/newsroom/2016/03/worlds-older-population-grows-dramatically>).
- ◆ Sometimes referred to as a holistic practice, elder law focuses on the legal needs of the whole client, rather than focusing on a particular category of legal practice. Elder law presents questions about public policy and intergenerational justice as it relates to the allocation of resources between the younger generation and senior citizens.

Related Areas of Legal Practice

Elder law intersects with a number of other practice areas, including, but not limited to:

- ◆ **Estate planning:** Elderly individuals are frequently concerned with what will happen to their worldly goods at the time of their death.
- ◆ **Family law:** Issues regarding marriage, divorce, and subsequent remarriage can create legal disputes with regard to which descendants inherit under a will or through intestacy statutes, grandparent custody, visitation and adoption, and benefits issues, such as Social Security or spousal pension rights.
- ◆ **Personal injury:** As the aging population increases, so too have questions regarding whether elder care facilities provide adequate services to their residents. Some small firms specialize in nothing but elder abuse and neglect at nursing homes or other assisted living facilities.

Where would I work if I specialized in elder law?

- ◆ **Government:** Government agencies that focus on protecting the rights of the elderly include Adult Protective Services, the Social Security Administration, the Centers for Medicare and Medicaid Services, and the Department of Health and Human Services. Other state agencies include the Aging Commission of the Mid-South and the TN Commission on Aging and Disability
- ◆ **Non-profit and Public Interest:** Non-governmental organizations (NGOs) working with the elderly population include legal services programs, the AARP Legal Foundation, and counsel for the National Senior Citizens Law Center.
- ◆ **Private practice:** Elder law is largely associated with private practitioners and small firms, though larger personal injury firms have begun to recognize elder law as an expanding (and lucrative) area of practice.

What classes should I take if I want to practice in elder law?

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| ◆ Decedents' estates | ◆ Estate and gift tax | ◆ ADR (mediation or arbitration) |
| ◆ Elder law | ◆ Trust law | ◆ Trial advocacy |
| ◆ Elder law seminar | ◆ Administrative law | ◆ Legal drafting |
| ◆ Income tax | ◆ Health law | ◆ Elder Law Clinic |

Check out the American Bar Association

- ◆ The ABA Senior Lawyers Division is the official home of elder law within the ABA approved by the ABA Board of Governors. Their website can be found at: https://www.americanbar.org/groups/senior_lawyers/elder_law.html

Participate in the School's Elder Law Clinic

- ◆ The Elder Law Clinic offers student attorneys the opportunity to represent senior citizens, who are one of the fastest growing demographic groups in the United States. Student practice will be governed by the tenets of elder law practice developed by the National Elder Law Foundation and refined by the National Academy of Elder Law Attorneys. Student attorneys will further develop core legal skills through representation of elderly clients across a broad range of substantive areas, including: Consumer protection, financial exploitation, conservatorship, real property issues, grandparent adoption, health care, Social Security, wills, and advanced directives.
- ◆ Student attorneys also gain practical experience in problem solving, case analysis, transactional practice, administrative advocacy, and litigation in Shelby County General Sessions, Circuit, Chancery, and Probate Courts.
- ◆ Faculty: Donna S. Harkness, CELA, Professor of Clinical Law and Director, Elder Law Clinic
Email: dharknss@memphis.edu
- ◆ Read more about the Elder Law Clinic here: http://www.memphis.edu/law/documents/adamcooper_perspectivearticle.pdf

Practical Resources Recommended by Elder Law Practitioners

- ◆ Tennessee Elder Law Practice Manual - Takacs
<https://store.lexisnexis.com/products/elder-law-practice-in-tennessee-skuusku7340>
- ◆ First Time Caregiver's Plan
https://www.amazon.com/Understand-Alzheimers-First-Time-Caregivers-Dementia/dp/162315300X/ref=sr_1_3?ie=UTF8&qid=1499355037&sr=8-3&keywords=alzheimers+caregiver+books

University of Memphis Law Library Resources

- ◆ Mastering Elder Law—Professor Ralph Brashier
Call No.: KF390.A4 B73 2015 (Level 1 in open reserve)
- ◆ Ethics in the Practice of Elder Law—Roberta K. Flowers and Rebecca C. Morgan
eBook
- ◆ Elder Law Answer Book—Robert B. Fleming
Call No.: KF390.A4 F58 2016 (Level 3 of the Law Library)