

PROFESSOR ENRIQUE ZAMORA

ELDER LAW

LAW 6717-1552 – 3 CREDIT HOURS

UNIVERSITY OF FLORIDA

LEVIN COLLEGE OF LAW

Spring 2018

Learning Outcomes and Objectives

In this course, students will:

- identify and describe the growing needs of the elderly throughout the nation
- identify, describe, compare, and contrast the legal response to the needs of the elderly including federal and state responses and legislation.
- identify and describe ethical issues raised in representing elderly clients
- identify and describe legal issues with age discrimination in employment, Medicaid planning, health care, housing, probate, guardianship, and abuse
- evaluate statutory provisions for key rules and exclusions
- recognize the various sides of a given legal issue, and effectively articulate the strengths and weaknesses of each

CLASS SCHEDULE

Monday: 9:00 - 11:30 PM

Room: 355A

OFFICE HOURS

By appointment only

Telephone number: 305-285-0285

E-mail address: ezamora@zhlaw.net

REQUIRED COURSE MATERIALS

Elder Law: Cases and Materials (Frolik; Barnes, Sixth Edition)

GRADING POLICY

Final grades to measure student performance will be determined based on an in-class closed book and closed note examination. The final exam will likely consist of multiple choice, essay and/or short answer questions derived from discussions in class, the course materials and handouts.

Letter Grade	Point Equivalent
A (Excellent)	4.0
A-	3.67
B+	3.33
B	3.0
B-	2.67
C+	2.33
C (Satisfactory)	2.0
C-	1.67
D+	1.33
D (Poor)	1.0
D-	0.67
E (Failure)	0.0

The law school grading policy is available at: <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#9>.

Final Exam Essay Question Performance Indicators

Content of Each Answer (primary component of grade)

The content element will be judged on:

- How effectively the answer is organized
- How clearly the answer is written
- How accurate the answer's writing is
- The preponderance of reasoned conclusions
- How well the answer reflects the student's ability to interpret the given information.
- How directly the answer respond to given questions.
- Issue spotting

Grammar (secondary component of grade)

The grammar element will be judged on a few key elements:

- Correct punctuation and spelling
- Subject/verb agreement
- Sentence construction
- Use of complete sentences / articulation of complete thoughts

ATTENDANCE, PREPARATION AND PARTICIPATION

Class attendance is mandatory. Attendance is measured solely by the sign-in sheet. It is each student's responsibility to sign the sheet at the beginning of class. Students deemed absent for more than 20% of scheduled classes may not sit for the final examination and cannot pass the course. I provide the Registrar with an attendance sheet for each class, and that is the exclusive measure of your attendance. If for any reason your attendance is not recorded there, you are considered absent. There are no "excused" absences – if for any reason you anticipate missing more than 20% of the classes, you are advised to withdraw before it is too late to do so. Please review the Student Handbook for further information regarding the attendance policy. Also be aware that it is a serious violation of the Academic Integrity policy to sign in other people or to have others sign you in.

Punctuality shows respect for your colleagues and professors and is part of the professionalism expected of you as future lawyers. Please arrive at school early enough to allow yourself enough time to be in your seat ready to begin. Any student not in class within the first fifteen minutes of class (or leaving more than fifteen minutes early) is not permitted to sign the attendance sheet.

You should read the assignment for each day carefully, and prepare answers to all the problems in the assigned text. We will discuss your problem answers in class, and you will be required to present portions to the class. In class, you may be asked to explain certain aspects of any case, problem or statutory section. If you encounter terms that you do not understand, you are expected to look up those terms in a good legal dictionary and be prepared to define them for the class.

ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every "classroom hour" of in-class instruction. (Course) has 3 "classroom hours" of in-class instruction each week, requiring at least 6 hours of preparation outside of class. Accordingly, you will have about 60 pages of reading each week. Because the course includes statutory and regulatory excerpts that require careful reading, as well as discussion problems that require thoughtful advance written preparation, you should spend at least one hour on every 10-15 pages of reading.

ACADEMIC MISCONDUCT

Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at <http://www.dso.ufl.edu/students.php>.

ACCOMODATIONS

Students requesting accommodation for disabilities must first register with the Dean of Students Office (<http://www.dso.ufl.edu/drc/>). The Dean of Students Office will provide documentation to the student who must then provide this documentation to the Dean Rachel Inman when requesting accommodation. You must submit this documentation prior to submitting assignments or taking the quizzes or exams. Accommodations are not retroactive, therefore, students should contact the office as soon as possible in the term for which they are seeking accommodations.

SYLLABUS

From time to time, we will skip over material in the casebook. I will announce any changes in class or through e-mail. Please do not read substantially ahead of our class discussions. If you have extra time after preparing for class, it would be better spent reviewing material already covered. In addition to the pages assigned in the casebook, where the materials make reference the Florida Statutes, you are expected to read those sections and to be prepared to discuss how those sections affect the cases and problems in the casebook.

TENTATIVE SCHEDULE OF ASSIGNMENTS

- JANUARY 8, 2018** - **Chapter 1 - An Aging Population: The Challenge to the Law.**
Text Pages: 1 - 30. Read: *What is Elder Law?* (Available on TWEN).

Class Discussion: What is elder law?

*All students must sign up for a group project by the end of the class.
- JANUARY 15, 2018** - **Martin Luther King Holiday – No Class**
- JANUARY 22, 2018** - **Chapter 2 – Elder Law Practice and Ethics.**
Text Pages: 31 - 72. Read: *Mediation in Guardianship.* (Available on TWEN).

Group Discussion: Who is the client?
Group Discussion: How can mediation help older clients?
- JANUARY 29, 2018** - **Chapter 3 - Age Discrimination in Employment.**
Text Pages: 73 - 129.

Group Discussion: Difference between employee and independent contractor?
- FEBRUARY 5, 2018** - **Chapter 4 - Income Maintenance.**
Text Pages: 130 - 180. Read: *Detzel and Bonnet- IRA* (Available on TWEN); ***Still Seeking Security*** (Available on TWEN); ***Boomers Wanting to Work Past Retirement*** (Available on TWEN); ***Why Baby Boomers are Bummed Out?*** (Available on TWEN).

Group Discussion: Discuss planning for retirement using IRA's. What are the limitations for single as well as married taxpayers? What is the estate planning angle? What is a Roth IRA? Discuss Roth IRA Conversion opportunities in today's market.
Group Discussion: The need for long term care insurance.
Read "*Long Term Care Insurance-A Life Raft for Baby Boomers*" Enrique Zamora, Esq. and Ms. Deborah Nodar.(Available on TWEN)

Quiz #1

- FEBRUARY 12, 2018** - **Chapter 5 - Health Care.**
Text Pages: 181 - 235.
- Group Discussion: The impact of the Affordable Care Act on health care.
- FEBRUARY 19, 2018** - **Chapter 6 – Paying for Long-Term Care.**
Text Pages: 224 - 265.
Guest speaker: Medicaid planning. (Available on TWEN).
- Group Discussion: In regards to government benefits, explain (a) Social Security benefits, (b) Medicare benefits, and (c) Medicaid benefits. Is your retirement safe?
- FEBRUARY 26, 2018** - **Chapter 7 –Nursing Homes**
Text Pages: 266 - 312. Read: *Qualifying for Medicaid Long-Term Care Programs* (Available on TWEN); ***Which SNT, When and Why?*** (Available on TWEN); ***Special Trusts Can Help Protect Special Relatives*** (Available on TWEN); ***Special Needs Trust*** (Available on TWEN).
- Group Discussion: Is Medicaid planning legal?
- MARCH 5, 2018** - **Spring Break – No Class**
- MARCH 12, 2018** - **Chapter 8 - Housing.**
Text Pages: 313 - 348. Read: *Housing Options for Your Senior Client.* (Available on TWEN).
- Group Discussion: Where do you want to live when you grow up (old)?
- Quiz #2**
- MARCH 19, 2018** - **Chapter 9 - Guardianship.**
Text Pages: 349 - 406. Read: *Order Appointing Plenary Guardian* (Available on TWEN); ***Examining Committee Reports*** (Available on TWEN); ***Guardianship: Special Proceedings*** (Available on TWEN); ***Introduction to Guardianship*** (Available on TWEN); ***The issue of standing in guardianship litigation*** (Available on TWEN);
- Group Discussion: Alternatives to guardianship.
Group Discussion: How can we improve F.S. Chapter 744?
- MARCH 26, 2018** - **Baker Act and Marchman Act - an overview.**
Read: *All About the Baker and Marchman Acts* (Available on TWEN) ***Involuntary Civil Commitment and the Inescapable Wetness of Light*** (Available on TWEN); **Florida Statutes, Chapters 394 & 397. Guest Speaker Baker Act.**

Group Discussion: What can we do with mentally ill people?

APRIL 2, 2018

- **Chapter 10 - Property Management.**
Text Pages: 407 - 443. Read: *Housing Options for Your Senior Client.*
(Available on TWEN); **Florida Statutes, Chapter 709**

Group Discussion: Advantages and disadvantages of durable power of attorneys?

Assignment #2: Draft a Durable Power of Attorney

APRIL 9, 2018

- **Trust and Probate Administration and Litigation**
Read: Florida Statutes, chapters 736 and 733

APRIL 16, 2018

- **Chapter 11 - Health Care Decision Making.**
Text pages: 445 - 494.

Group Discussion: How can we improve advance directives? Review Chapter 765.

Group Discussion: What is the future of advance directives? Look at Rule 5.900. What does it say? What are the "seven wishes"?

Group Discussion: How can we change Durable Powers of Attorney to curve abuse?

APRIL 23, 2018

- **Chapter 12 - Elder Abuse, Neglect, and Crime.**
Text pages: 495 - 542. Read: *Boom time for cybercrime* (Available on TWEN).
Presentation by Attorney for Department of Children and Families

MAY 1, 2018

- **FINAL EXAM at 8:30 AM – Room TBA**