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Book Review: Representing the Elderly Client: Law and Practice

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BOOKSHELF

Representing the Elderly Client: Law and Practice

By Jane M.R. Mulcahy

***Representing the Elderly Client: Law and Practice*, by Thomas D. Begley, Jr., & JoAnne Herina Jeffreys (Panel Publishers 1999)**

R*epresenting the Elderly Client* is a comprehensive, practice-based manual for elder law attorneys. It offers a thorough outline of every aspect of the elder law practice, together with invaluable annotations, suggested forms and checklists (which are included with the manual on disk), and helpful commentary. I refer to the manual in my practice at least daily and find it a valuable resource. If the manual does not have the answer, it refers you to other readily accessible sources.

The manual is divided into 15 chapters, a table of cases, a table of statutes, a table of contents, and an index. Topics and key words can be readily found. The chapters include the following:

Advocacy: The Changing Face of Elder Law, Issues and Strategies. This chapter includes a discussion on the demographics of the elder population, the

movers and shakers in this emerging segment of the law, the emerging issues affecting the elderly, and the how-to of being effective legal counsel for this population.

Ethics: Practical Dilemmas in Daily Practice. This section discusses the Model Rules of Professional Conduct as they relate to the elder law practice. The book discusses and offers advice for the practical dilemmas that elder law attorneys face by reason of the character of their clients and the legal issues particular to the elder population.

The Continuum of Care: Treatment and Living Facilities. This chapter addresses the continuum of care for the elderly, including the geriatric case manager, independent living communities, adult day care, assisted living facilities, home health care, nursing homes, continuing care retirement communities, and hospices.

Nursing Home Law and Litigation. This section first gives an overview of the Nursing Home Reform Act of 1987. Next, other federal and some state regulations are considered. The book then outlines the issues

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nursing home residents face, including the care received, admission, payment, and transfer and discharge. Finally, remedies and tort litigation with respect to nursing home breaches is discussed.

Managed Care Practice and Litigation. This section discusses the impact of managed care on the elderly. It considers the types of managed care options, the basic mechanisms of managed care plans, the obstacles presented to providers in providing care, the regulation of managed care, and managed care litigation.

Long-term Care: Non-Medicaid Financing and Tax Considerations. This chapter discusses the non-Medicaid financing of long-term care, including long-term care insurance, Medicare, and veterans benefits. It also considers the tax implications of financing long-term care.

Medicaid Financing of Nursing Home Care. This section outlines the Medicaid program. It also discusses qualifying trusts and includes forms of these trusts.

Medicaid Planning Strategies. This chapter explains Medicaid planning strategies, including spending down, converting assets to exempt assets, income plan-

ning, and income strategies. The section offers a "mini-system," including checklists and sample letters for the elder law office.

Medicaid Liens and Estate Recovery. This section outlines the Medicaid estate recovery system. It also provides the elder law attorney with an estate recovery analysis checklist.

Medicaid Fair Hearings and Litigation Considerations. This chapter details the Medicaid fair hearing procedure, including standards, notice, and filing requirements. The manual also details how to conduct a fair hearing, how to prepare for a fair hearing, and how to collect attorney's fees. Finally, alternatives to the fair hearing are considered. This section offers a comprehensive Medicaid fair hearing "mini-system," with checklists, letters, and forms.

The Public Benefit Programs. This section outlines public benefit programs, including Supplemental Security Income, Medicaid, Social Security Disability, Medicare, and federally assisted housing. Eligibility, benefits, and limitations are discussed for each program.

Special Needs Trusts: Estate and Financial Planning for the Disabled Child. This chapter dis-

cusses the special needs trust in detail. It also provides the elder law attorney with a special needs trusts "mini-system," complete with sample trusts, checklists, and sample letters.

Enforcing the Client's Right to Die. This section outlines advanced directives and physician-assisted suicide. Sample powers of attorney for health care and living wills are provided for the practitioner.

Elder Abuse: Recognition and Remedies. This chapter discusses the types of abuse and their indicators. It also suggests remedies for the abused elder client.

The Elder Law Office: Coping with Change in the 21st Century. This section discusses the trends in the elder law field and their implications. It also outlines the types of legal services that will be in demand this century from the elder law practitioner.

This manual is highly recommended for the new elder law attorney, for the elder law attorney looking to expand services, and for the attorney breaking into the elder law field. Its comprehensive outline of the area of elder law and its practical guidance make it a wonderful addition to any law library.