

**ELDER LAW:
READINGS, CASES,
AND MATERIALS**

THIRD EDITION



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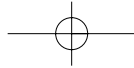
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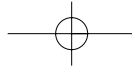
THIRD EDITION

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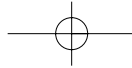
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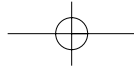


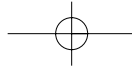
DEDICATIONS

For my late grandparents, Dock Ballard, Myrtle Johnson Ballard,
Robert P. Dayton, and Rhoda Yoder Dayton Gross,
Arthur D. and LaVonia B. Dayton
A.K.D.

For my parents, Julia Belle Tucker Wood and Harold Pope Wood, Jr.
M.M.W.





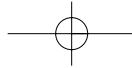


PREFACE TO THE THIRD EDITION

Introduction. This book is designed to serve as the main textbook for courses and seminars on the intersection of law and aging. This area of the law is of rapidly-increasing significance because of the demographic changes affecting the United States and, indeed, the rest of the world. The percentage of Americans aged 65 or older has more than tripled since the beginning of the twentieth century, and this percentage will rise even more as the so-called “Baby Boomers” begin to join the ranks of the elderly. As people age, they often face a bewildering array of legal issues, ranging from age discrimination to retirement planning, from elder abuse to assisted suicide. Legal issues involving the elderly are more and more in the news; in the four years since publication of the second edition Congress has enacted a prescription drug benefit in Medicare and greatly restricted the access of seniors to Medicaid.

Coverage. The chapters in this book explore these topics in a systematic fashion. We begin in Chapters 1 and 2 with a general introduction to the legal and ethical issues facing the elderly and their lawyers. We then turn in Chapter 3 to the problem of age and disability discrimination. Chapter 4 addresses retirement planning and contains material on government programs (such as Social Security and SSI), private pensions, and Individual Retirement Accounts. Some elderly people need help in managing their assets, so Chapter 5 deals with the legal devices designed to assist with property management: powers of attorney, joint ownership, agency accounts, and inter vivos trusts. The second edition’s Chapter 6 has been divided into two chapters: Chapter 6 of the third edition addresses guardianship, which can be of the person or of the estate; Chapter 7 concerns elder abuse, which can be physical, emotional, or financial. Chapter 8 then turns to health care, which is a major concern for most older people; the chapter examines the relevant government programs (such as Medicare and Medicaid), the need for Medigap or long-term care insurance, and the use of living wills, powers of attorney, and surrogacy statutes to preserve or delegate medical decisions in the face of incapacity. Chapter 9 then covers issues pertaining to housing, including the regulation of nursing homes and the rise of assisted living facilities. Chapter 10 explores issues surrounding grandparents who are the primary caregivers for their grandchildren. Chapter 11, which we expect will be the last chapter to be covered in the typical semester, addresses end-of-life issues: viatical settlements, anatomical donations, and the right to die. Old Chapter 11, which comprised a summary of estate planning principles, has been deleted.

Division of Responsibility. We have worked largely independently, focusing on our respective areas of expertise. Professor Dayton has supervised the production of the Third Edition and has prepared the introductory chapter and materials on discrimination, guardianship, elder abuse, the end of life, and the new chapter on grandparents as parents (Chapters 1, 3, 6, 7, 10, and 11). Professor Wood has prepared the materials on ethical issues, public benefits,

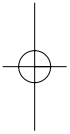


health care, and housing (Chapters 2, 4A, 8A, 8B, and 9). The book's new co-author, Professor Belian, has prepared the materials on pensions and private savings, and property management.

Statutory Supplement. This book of readings is designed to be used with a companion code book, *ELDER LAW: STATUTES AND REGULATIONS, Third Edition*. Rather than reproduce statutes and regulations in a piecemeal fashion among our readings, we believe that it is better and easier to study legislative materials in a separate volume.

Acknowledgments. First and foremost, we would like to thank Sean Caldwell, Jennifer Beszley, and Don Cambria at LexisNexis for their encouragement and support during the development and execution of this project. For financial support and invaluable library assistance, we would like to thank our respective institutions, the William Mitchell College of Law, the University of Kansas School of Law, and the University of Missouri-Kansas City School of Law. Finally, Professors Dayton and Wood would like to thank all of the students who have been enrolled in the University of Kansas Elder Law Clinic since its inception in Fall 1995; the dedication of these students to their clients has been remarkable.

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July 2007



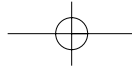
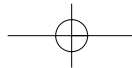


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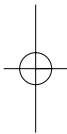
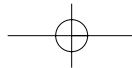


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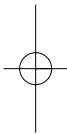


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